

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 49

Representatives Ferguson, Barhorst

Cosponsors: Representatives Gross, Young, T., Plummer, Click, Stein, Williams, Jordan, Merrin, Dean, Klopfenstein, Johnson, Kick, Wiggam, Creech, Stoltzfus, McClain, Powell, King, Claggett, Willis, Fowler Arthur, Miller, M., Dobos, Lear, Holmes, Hall, John, Stewart

A BILL

To amend sections 3701.83 and 3727.44; to amend, 1
for the purpose of adopting a new section number 2
as indicated in parentheses, section 3727.44 3
(3727.41); to enact sections 3727.31, 3727.32, 4
3727.33, 3727.34, 3727.35, 3727.36, 3727.37, 5
3727.38, 3727.39, and 3727.40; and to repeal 6
sections 3727.42, 3727.43, and 3727.45 of the 7
Revised Code regarding the availability of 8
hospital price information; and to amend the 9
version of section 3701.83 of the Revised Code 10
that is scheduled to take effect on September 11
30, 2024, to continue the change on and after 12
that date. 13

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

Section 1. That sections 3701.83 and 3727.44 be amended; 14
section 3727.44 (3727.41) be amended for the purpose of adopting 15
a new section number as indicated in parentheses; and sections 16
3727.31, 3727.32, 3727.33, 3727.34, 3727.35, 3727.36, 3727.37, 17

3727.38, 3727.39, and 3727.40 of the Revised Code be enacted to 18
read as follows: 19

Sec. 3701.83. There is hereby created in the state 20
treasury the general operations fund. Moneys in the fund shall 21
be used for the purposes specified in sections 3701.04, 22
3701.344, 3702.20, 3711.16, 3717.45, 3718.06, 3721.02, 3721.022, 23
3727.38, 3729.07, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 24
3748.13, 3749.04, 3749.07, 4736.06, and 4769.09 of the Revised 25
Code. 26

Sec. 3727.31. As used in sections 3727.31 to 3727.39 of 27
the Revised Code: 28

(A) "Ancillary service" means a hospital item or service 29
that a hospital customarily provides as part of a shoppable 30
service. 31

(B) "Chargemaster" means the list maintained by a hospital 32
of each hospital item or service for which the hospital has 33
established a charge. 34

(C) "De-identified maximum negotiated charge" means the 35
highest charge that a hospital has negotiated with all third- 36
party payors for a hospital item or service. 37

(D) "De-identified minimum negotiated charge" means the 38
lowest charge that a hospital has negotiated with all third- 39
party payors for a hospital item or service. 40

(E) "Discounted cash price" means the charge that applies 41
to an individual who pays cash, or a cash equivalent, for a 42
hospital item or service. 43

(F) "Hospital" has the same meaning as in section 3722.01 44
of the Revised Code, notwithstanding the meaning of that term in 45

3727.01 of the Revised Code. 46

(G) "Hospital items or services" means all items or 47
services, including individual items or services and service 48
packages, that may be provided by a hospital to a patient in 49
connection with an inpatient admission or an outpatient 50
department visit, as applicable, for which the hospital has 51
established a standard charge, including all of the following: 52

(1) Supplies and procedures; 53

(2) Room and board; 54

(3) Use of the hospital and other areas, the charges for 55
which are generally referred to as facility fees; 56

(4) Services of physicians and non-physician 57
practitioners, employed by the hospital, the charges for which 58
are generally referred to as professional fees; 59

(5) Any other item or service for which a hospital has 60
established a standard charge. 61

(H) "Gross charge" means the charge for a hospital item or 62
service that is reflected on a hospital's chargemaster, absent 63
any discounts. 64

(I) "Machine-readable format" means a digital 65
representation of information in a file that can be imported or 66
read into a computer system for further processing. "Machine- 67
readable format" includes.XML,.JSON, and.CSV formats. 68

(J) "Payor-specific negotiated charge" means the charge 69
that a hospital has negotiated with a third-party payor for a 70
hospital item or service. 71

(K) "Service package" means an aggregation of individual 72

hospital items or services into a single service with a single 73
charge. 74

(L) "Shoppable service" means a service that may be 75
scheduled by a health care consumer in advance. 76

(M) "Standard charge" means the regular rate established 77
by the hospital for a hospital item or service provided to a 78
specific group of paying patients. "Standard charge" includes 79
all of the following: 80

(1) The gross charge; 81

(2) The payor-specific negotiated charge; 82

(3) The de-identified minimum negotiated charge; 83

(4) The de-identified maximum negotiated charge; 84

(5) The discounted cash price. 85

(N) "Third-party payor" means an entity that is, by 86
statute, contract, or agreement, legally responsible for payment 87
of a claim for a hospital item or service. 88

Sec. 3727.32. A hospital shall make public both of the 89
following: 90

(A) As described in section 3727.33 of the Revised Code, a 91
digital file in a machine-readable format that contains a list 92
of all standard charges for all hospital items or services; 93

(B) As described in section 3727.34 of the Revised Code, a 94
consumer-friendly list of standard charges for the hospital's 95
shoppable services. 96

Sec. 3727.33. (A) A hospital shall maintain a list of all 97
standard charges for all hospital items or services in 98
accordance with this section. The hospital shall ensure that the 99

list is available at all times to the public, including by 100
posting the list electronically in the manner provided by this 101
section. 102

(B) The standard charges contained in the list shall 103
reflect the standard charges applicable to that location of the 104
hospital, regardless of whether the hospital operates in more 105
than one location or operates under the same license as another 106
hospital. 107

(C) The list shall include the following information, as 108
applicable: 109

(1) A description of each hospital item or service 110
provided by the hospital; 111

(2) The following charges, expressed in dollar amounts, 112
for each particular hospital item or service when provided in 113
either an inpatient setting or an outpatient department setting, 114
as applicable: 115

(a) The gross charge; 116

(b) The de-identified minimum negotiated charge; 117

(c) The de-identified maximum negotiated charge; 118

(d) The discounted cash price; 119

(e) The payor-specific negotiated charge, listed by the 120
name of the third-party payor and health plan associated with 121
the charge and displayed in a manner that clearly associates the 122
charge with each third-party payor and health plan; 123

(f) Any code used by the hospital for purposes of 124
accounting or billing for the hospital item or service, 125
including the current procedural terminology (CPT) code, 126

healthcare common procedure coding system (HCPCS) code, 127
diagnosis related group (DRG) code, national drug code (NDC), or 128
other common identifier. 129

(D) The information contained in the list shall be 130
published in a single digital file that is in a machine-readable 131
format. 132

(E) The list shall be displayed in a prominent location on 133
the home page of the hospital's publicly accessible internet web 134
site or be accessible by selecting a dedicated link that is 135
prominently displayed on that home page. If the hospital 136
operates multiple locations and maintains a single internet web 137
site, a separate list shall be posted for each location the 138
hospital operates and shall be displayed in a manner that 139
clearly associates the list with the applicable location. 140

(F) The list shall satisfy all of the following 141
conditions: 142

(1) Be available free of charge; without having to 143
register or establish a user account or password; without having 144
to submit personal identifying information, including any 145
information pertaining to an individual's health care coverage 146
or other benefits; and without having to overcome any other 147
impediment in order to access the list, including such 148
impediments as entering a code or completing any type of 149
security measure known as challenge-response authentication; 150

(2) Be accessible to a common commercial operator of an 151
internet search engine to the extent necessary for the search 152
engine to index the list and display the list as a result in 153
response to a search query of a user of the search engine; 154

(3) Be formatted in a manner prescribed by the template 155

developed under division (G) of this section; 156

(4) Be digitally searchable; 157

(5) Use the following naming convention specified by the 158
United States centers for medicare and medicaid services, 159
specifically: 160

"<ein> <hospital-name>_standardcharges.[jsonxmlcsv]." 161

(G) For purposes of division (F) (3) of this section, the 162
director of health shall develop a template that each hospital 163
shall use in formatting the list. In developing the template , 164
the director shall do both of the following: 165

(1) Consider any applicable federal guidelines for 166
formatting similar lists required by federal statutes or 167
regulations and ensure that the design of the template enables 168
health care consumers or other researchers to compare the 169
charges contained in the lists maintained by each hospital; 170

(2) Design the template to be substantially similar to the 171
template used by the United States centers for medicare and 172
medicaid services for purposes similar to those of sections 173
3727.31 to 3727.39 of the Revised Code, if the director 174
determines that designing the template in that manner serves the 175
purposes of this section and that the department of health 176
benefits from the director developing and requiring that 177
substantially similar design. 178

(H) At least once each year, the hospital shall update the 179
list it maintains under this section. The hospital shall clearly 180
indicate the date on which the list was most recently updated, 181
either on the list or in a manner that is clearly associated 182
with the list. 183

Sec. 3727.34. (A) A hospital shall maintain and make 184
publicly available a list of the standard charges described in 185
divisions (C) (2) (b), (c), (d), and (e) of section 3727.33 of the 186
Revised Code for the hospital's shoppable services. With respect 187
to the shoppable services that are included on the list, both of 188
the following apply: 189

(1) During the period beginning on the effective date of 190
this section and ending December 31, 2024, the hospital may 191
select the shoppable services to be included on the list, 192
subject to all of the following: 193

(a) The list shall include at least three hundred 194
shoppable services, unless the hospital provides fewer than 195
three hundred shoppable services, in which case the list shall 196
include the number of shoppable services that the hospital 197
provides. 198

(b) Of the shoppabale services selected for purposes of 199
division (A) (1) (a) of this section, the list shall include the 200
seventy services specified as shoppable services by the United 201
States centers for medicare and medicaid services, unless the 202
hospital does not provide all of the seventy services, in which 203
case the list shall include as many of those services as the 204
hospital does provide. 205

(c) In selecting a shoppable service for purposes of 206
inclusion on the list, a hospital shall do both of the 207
following: 208

(i) Consider how frequently the hospital provides the 209
service and the hospital's billing rate for that service; 210

(ii) Prioritize the selection of services that are among 211
the services most frequently provided by the hospital. 212

<u>(2) Beginning January 1, 2025, the hospital shall include</u>	213
<u>on the list all shoppable services that the hospital provides.</u>	214
<u>(B) A hospital's list maintained under this section shall</u>	215
<u>include all of the following information:</u>	216
<u>(1) A plain-language description of each shoppable service</u>	217
<u>included on the list;</u>	218
<u>(2) The payor-specific negotiated charge that applies to</u>	219
<u>each shoppable service included on the list and any ancillary</u>	220
<u>service, listed by the name of the third-party payor and health</u>	221
<u>plan associated with the charge and displayed in a manner that</u>	222
<u>clearly associates the charge with the third-party payor and</u>	223
<u>health plan;</u>	224
<u>(3) The discounted cash price that applies to each</u>	225
<u>shoppable service included on the list and any ancillary service</u>	226
<u>or, if the hospital does not offer a discounted cash price for</u>	227
<u>one or more of the shoppable or ancillary services on the list,</u>	228
<u>the gross charge for the shoppable service or ancillary service,</u>	229
<u>as applicable;</u>	230
<u>(4) The de-identified minimum negotiated charge that</u>	231
<u>applies to each shoppable service included on the list and any</u>	232
<u>ancillary service;</u>	233
<u>(5) The de-identified maximum negotiated charge that</u>	234
<u>applies to each shoppable service included on the list and any</u>	235
<u>ancillary service;</u>	236
<u>(6) Any code used by the hospital for purposes of</u>	237
<u>accounting or billing for each shoppable service included on the</u>	238
<u>list and any ancillary service, including the current procedural</u>	239
<u>terminology (CPT) code, healthcare common procedure coding</u>	240
<u>system (HCPCS) code, diagnosis related group (DRG) code,</u>	241

<u>national drug code (NDC), or other common identifier.</u>	242
<u>(C) If applicable, the list shall do the following:</u>	243
<u>(1) State each location at which the hospital provides the shoppable service and whether the standard charges included in the list apply at that location to the provision of that shoppable service in an inpatient setting, an outpatient department setting, or in both of those settings, as applicable;</u>	244 245 246 247 248
<u>(2) Indicate if one or more of the shoppable services specified by the United States centers for medicare and medicaid services is not provided by the hospital.</u>	249 250 251
<u>(D) The list shall satisfy the following conditions, as applicable:</u>	252 253
<u>(1) Be displayed in the same manner prescribed by division (E) of section 3727.33 of the Revised Code for the list required under that section;</u>	254 255 256
<u>(2) Be available and accessible in the same manner prescribed by divisions (F) (1) and (2) of section 3727.33 of the Revised Code for the list required by that section;</u>	257 258 259
<u>(3) Be searchable by service description, billing code, and payor;</u>	260 261
<u>(4) Be formatted in a manner that is consistent with the template developed by the director of health under division (G) of section 3727.33 of the Revised Code for the list required under that section;</u>	262 263 264 265
<u>(5) Be updated in the same manner prescribed by division (H) of section 3727.33 of the Revised Code for the list required under that section.</u>	266 267 268

Sec. 3727.35. Each time a hospital updates a list as 269
required under sections 3727.33 and 3727.34 of the Revised Code, 270
the hospital shall submit the updated list to the director of 271
health. The director shall prescribe the form in which the 272
updated list is to be submitted. 273

Sec. 3727.36. (A) A hospital shall not do any of the 274
following: 275

(1) Fail to comply with the requirement to make public 276
either or both of the lists described in section 3727.32 of the 277
Revised Code; 278

(2) Fail to maintain either or both of the lists in 279
accordance with each of the requirements of sections 3727.33 and 280
3727.34 of the Revised Code; 281

(3) Fail in any other manner to comply with the 282
requirements that apply to the lists under sections 3727.31 to 283
3727.39 of the Revised Code. 284

(B) The director of health shall monitor each hospital's 285
compliance with division (A) of this section. The monitoring may 286
occur by any of the following methods: 287

(1) Evaluating complaints made by individuals to the 288
director, including complaints made as described in section 289
3727.39 of the Revised Code; 290

(2) Reviewing any analysis prepared regarding compliance 291
or noncompliance by hospitals; 292

(3) Auditing the internet web sites of hospitals for 293
compliance; 294

(4) Confirming that each hospital has submitted updated 295
lists in accordance with section 3727.35 of the Revised Code. 296

(C) In reviewing an application for renewal of a 297
hospital's license under Chapter 3722. of the Revised Code, the 298
director shall consider whether the hospital is violating or has 299
violated division (A) of this section. 300

(D) The director shall create and make publicly available 301
a list that identifies each hospital that is not in compliance 302
with division (A) of this section. The list of noncompliant 303
hospitals shall include any hospital that has been sent a notice 304
of violation under section 3727.37 of the Revised Code, is 305
subject to an order imposing an administrative penalty under 306
section 3727.38 of the Revised Code, has been sent any other 307
written communication from the director regarding a violation of 308
division (A) of this section, or otherwise has been determined 309
by the director to be not in compliance with division (A) of 310
this section. In addition to the list of noncompliant hospitals 311
being made publicly available, the materials that consist of 312
these notices, orders, communications, and determinations are 313
public records, as defined in section 149.43 of the Revised 314
Code. 315

Not later than ninety days after the effective date of 316
this section, the director shall create the initial list of 317
noncompliant hospitals and include the list on the internet web 318
site maintained by the department of health. The director shall 319
update the list and web site at least every thirty days 320
thereafter. 321

Sec. 3727.37. (A) If the director of health determines 322
that a hospital has violated division (A) of section 3727.36 of 323
the Revised Code, the director shall issue a notice of violation 324
to the hospital. The director shall clearly explain in the 325
notice the manner in which the hospital is not in compliance. 326

When a notice of violation is issued, the director shall 327
require the hospital to submit a corrective action plan to the 328
director. In the notice, the director shall indicate the form 329
and manner in which the corrective action plan is to be 330
submitted and clearly specify the date by which the hospital is 331
required to submit the plan. The date that is specified shall 332
not be less than fifteen days after the notice is sent. 333

(B) A hospital that receives a notice of violation shall 334
submit to the director a corrective action plan in the form and 335
manner indicated, and by the date specified, in the notice. In 336
the plan, the hospital shall provide a detailed description of 337
the corrective action the hospital will take to address each 338
violation identified by the director. The hospital shall specify 339
the date by which it will complete the corrective action. The 340
date that is specified shall not be more than ninety days after 341
the plan is submitted. 342

(C) A corrective action plan is subject to review and 343
approval by the director. After the director reviews and 344
approves the plan, the director shall monitor and evaluate the 345
hospital's compliance with the plan. 346

(D) A hospital shall not do any of the following: 347

(1) Fail to respond to the director's requirement to 348
submit a corrective action plan; 349

(2) Fail to submit a corrective action plan in the form 350
and manner indicated in the notice of violation or by the date 351
specified in that notice; 352

(3) Fail to complete the corrective action specified in a 353
corrective action plan by the date specified in the plan. 354

Sec. 3727.38. (A) (1) Notwithstanding any conflicting 355

provision of the Revised Code, the director of health shall 356
impose an administrative penalty on a hospital if the hospital 357
does either of the following: 358

(a) Violates division (A) of section 3727.36 of the 359
Revised Code; 360

(b) Violates division (D) of section 3727.37 of the 361
Revised Code. 362

(2) Each day a violation continues is considered a 363
separate violation. 364

(B) In imposing an administrative penalty under this 365
section, the director shall act in accordance with Chapter 119. 366
of the Revised Code. The amount of the penalty to be imposed on 367
a hospital shall be selected by the director, subject to the 368
minimum amounts and considerations specified in division (C) of 369
this section. For all penalties that are imposed, the director 370
shall select amounts that are sufficient to ensure that 371
hospitals comply with the requirements of sections 3727.31 to 372
3727.39 of the Revised Code. 373

(C) (1) An administrative penalty imposed under this 374
section shall not be lower than the following: 375

(a) In the case of a hospital with a bed count of thirty 376
or fewer, six hundred dollars; 377

(b) In the case of a hospital with a bed count that is 378
greater than thirty and equal to or fewer than five hundred 379
fifty, twenty dollars per bed; 380

(c) In the case of a hospital with a bed count that is 381
greater than five hundred fifty, eleven thousand dollars. 382

(2) In setting the amount of the penalty to be imposed on 383

a hospital, the director shall consider all of the following: 384

(a) Previous violations by the hospital's operator; 385

(b) The seriousness of the violation; 386

(c) The demonstrated good faith of the hospital's 387
operator; 388

(d) Any other matters as justice may require. 389

(D) An administrative penalty collected under this section 390
shall be deposited into the state treasury to the credit of the 391
general operations fund created by section 3701.83 of the 392
Revised Code. The amounts deposited shall be used for purposes 393
of administering and enforcing sections 3727.31 to 3727.39 of 394
the Revised Code, except that the director may use a portion for 395
purposes of informing the public about the availability of 396
hospital price information and other consumer rights under those 397
sections. 398

Sec. 3727.39. (A) As used in this section: 399

(1) "Collection action" means any of the following actions 400
taken with respect to a debt for hospital items or services that 401
were purchased by or provided to a patient: 402

(a) Attempting to collect a debt from a patient or patient 403
guarantor by referring the debt, directly or indirectly, to a 404
debt collector, a collection agency, or other third party 405
retained by or on behalf of the hospital; 406

(b) Suing the patient or patient guarantor, or enforcing 407
an arbitration or mediation clause in any hospital documents 408
including contracts, agreements, statements, or bills; 409

(c) Directly or indirectly causing a report to be made to 410

a consumer reporting agency. 411

(2) "Collection agency" means either of the following: 412

(a) A person who engages in a business that has as its principal purpose the collection of debts; 413
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(b) A person who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another, takes assignment of debts for collection purposes, or directly or indirectly solicits for collection debts owed or due or asserted to be owed or due to another. 415
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(3) "Consumer reporting agency" means any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties. "Consumer reporting agency" includes a person described in section 603 of the "Fair Credit Reporting Act," 15 U.S.C. 1681a(f). "Consumer reporting agency" does not include a business entity that provides check verification or check guarantee services only. 421
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(4) "Debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction, whether or not the obligation has been reduced to judgment. 431
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(5) "Debt collector" means any person employed or engaged by a collection agency to perform the collection of debts owed or due or asserted to be owed or due to another. 434
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(B) If a patient or patient guarantor believes that a violation of division (A) of section 3727.36 of the Revised Code has occurred, the patient or patient guarantor may submit a 437
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complaint to the director of health. The director shall evaluate 440
the complaint as described in section 3727.36 of the Revised 441
Code. 442

(C) If the director of health determines that a hospital 443
violated division (A) of section 3727.36 of the Revised Code, 444
and the hospital was in violation on the date that hospital 445
items or services were purchased by or provided to a patient, 446
the hospital shall not take, or continue to take, a collection 447
action against the patient or patient guarantor for a debt owed 448
for the hospital items or services. 449

(D) In addition to the duties described in section 3727.37 450
of the Revised Code, all of the following apply to a hospital 451
that has been determined by the director to have violated 452
division (A) of section 3727.36 of the Revised Code: 453

(1) The hospital shall refund the payer any amount of the 454
debt the payer has paid and shall pay a penalty to the patient 455
or patient guarantor in an amount that is twice the total amount 456
of the debt. 457

(2) The hospital shall dismiss any suit it may have 458
brought to collect the debt and shall pay any attorney's fees 459
and costs incurred by the patient or patient guarantor relating 460
to the suit. 461

(3) The hospital shall remove or cause to be removed from 462
the patient's or patient guarantor's credit report any report 463
made to a consumer reporting agency relating to the debt. 464

(E) (1) Nothing in this section prohibits a hospital from 465
billing a patient, patient guarantor, or third-party payor, 466
including a health insurer, for hospital items or services 467
provided to the patient. 468

(2) Nothing in this section requires a hospital to refund any payment made to the hospital for hospital items or services provided to the patient, as long as a collection action is not taken in violation of this section. 469
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Sec. 3727.40. The director of health shall prepare reports and submit them in accordance with both of the following: 473
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(A) On an annual basis, the director shall prepare a report on hospitals that are in violation of division (A) of section 3727.36 or division (D) of section 3727.37 of the Revised Code. The director shall submit the report to the general assembly in accordance with section 101.68 of the Revised Code, the chairperson of the standing committee of the house of representatives with primary responsibility for health legislation, the chairperson of the standing committee of the senate with primary responsibility for health legislation, and the governor. 475
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(B) On a periodic basis, the director shall prepare a report containing recommendations for modifying sections 3727.31 to 3727.39 of the Revised Code, including recommendations in response to changes in 45 C.F.R. Part 180 made by the United States centers for medicare and medicaid services. The director shall submit the report to the general assembly in accordance with section 101.68 of the Revised Code. 485
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Sec. ~~3727.44~~ 3727.41. The ~~Each~~ hospital shall provide a full disclosure of the provisions of section 3924.21 of the Revised Code to every beneficiary, as defined in section 3901.38 of the Revised Code, who receives services at the hospital. 492
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The director of health may adopt rules to carry out the purposes of ~~sections 3727.42 and 3727.43~~ ~~this section~~ of the 496
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~~Revised Code~~. All rules adopted pursuant to this section shall 498
be adopted in accordance with Chapter 119. of the Revised Code. 499

Section 2. That existing sections 3701.83 and 3727.44 of 500
the Revised Code are hereby repealed. 501

Section 3. That sections 3727.42, 3727.43, and 3727.45 of 502
the Revised Code are hereby repealed. 503

Section 4. That the version of section 3701.83 of the 504
Revised Code that is scheduled to take effect September 30, 505
2024, be amended to read as follows: 506

Sec. 3701.83. There is hereby created in the state 507
treasury the general operations fund. Moneys in the fund shall 508
be used for the purposes specified in sections 3701.04, 509
3701.344, 3711.16, 3717.45, 3718.06, 3721.02, 3721.022, 3727.38, 510
3729.07, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 3748.13, 511
3749.04, 3749.07, 4736.06, and 4769.09 of the Revised Code. 512

Section 5. That the existing version of section 3701.83 of 513
the Revised Code that is scheduled to take effect September 30, 514
2024, is hereby repealed. 515

Section 6. Sections 4 and 5 of this act take effect 516
September 30, 2024. 517