

As Reported by the Committee of Conference

124th General Assembly

Regular Session

2001-2002

Am. Sub. H. B. No. 405

REPRESENTATIVES Peterson, Schmidt, Clancy, Willamowski, Calvert,

Evans

SENATOR Carnes

A B I L L

To amend sections 103.144, 103.145, 103.146, 122.15,	1
145.01, 149.07, 166.03, 183.02, 317.33, 742.01,	2
1309.528, 1333.11, 3307.01, 3309.01, 3313.37,	3
3313.375, 3318.31, 3353.07, 3353.11, 3770.02,	4
3770.03, 3770.06, 5111.34, 5111.872, 5123.043,	5
5123.046, 5123.048, 5123.049, 5123.0411, 5126.01,	6
5126.02, 5126.021, 5126.033, 5126.035, 5126.036,	7
5126.042, 5126.046, 5126.05, 5126.054, 5126.055,	8
5126.06, 5126.14, 5126.15, 5126.17, 5126.18,	9
5126.19, 5126.221, 5126.357, 5505.01, 5705.44,	10
5709.12, 5709.121, 5709.17, 5709.40, 5709.411,	11
5709.43, 5709.73, 5709.74, 5709.75, 5709.77,	12
5709.78, 5709.79, 5709.80, 5709.81, 5725.14,	13
5725.24, 5725.25, 5725.26, 5733.056, 5733.06,	14
5733.0610, 5733.09, 5733.11, 5733.98, 5739.01,	15
5741.01, 5743.05, 5747.058, 5747.13, 5747.98,	16
5923.05, and 5923.051; to amend, for the purpose of	17
adopting a new section number as indicated in	18
parentheses, section 5126.056 (5126.057); to enact	19
new section 5126.056 and sections 122.171, 122.60,	20
122.601, 122.602, 122.603, 122.604, 122.605,	21
307.6910, 5733.45, 5739.012, and 5741.011; to	22
repeal section 103.147 of the Revised Code and to	23

As Reported by the Committee of Conference

amend Section 11 of Am. Sub. S.B. 50 of the 121st 24
General Assembly, to amend Section 3 of Am. Sub. 25
H.B. 440 of the 121st General Assembly, as 26
subsequently amended, to amend Section 5.02 of Sub. 27
H.B. 73 of the 124th General Assembly, to amend 28
Section 41 of Am. Sub. H.B. 94 of the 124th General 29
Assembly, as subsequently amended, to amend 30
Sections 41.15, 45, 63.25, 74.01, 74.02, 94.11, 31
104, and 140 of Am. Sub. H.B. 94 of the 124th 32
General Assembly, to amend Sections 41.10 and 63.09 33
of Am. Sub. H.B. 94 of the 124th General Assembly, 34
as subsequently amended, to amend Section 10 of Am. 35
Sub. S.B. 192 of the 123rd General Assembly, to 36
amend Section 9 of Am. Sub. S.B. 192 of the 123rd 37
General Assembly, as subsequently amended, and to 40
repeal Section 11 of Sub. H.B. 73 of the 124th 41
General Assembly, to revise provisions of Am. Sub. 42
H.B. 94 of the 124th General Assembly regarding 43
services for persons with mental retardation or 44
other developmental disabilities, to revise the law 45
governing membership of county boards of mental 46
retardation and developmental disabilities, to 47
grant property tax exemptions for Edison program 48
grantees, to modify Local Government Fund and 49
Tobacco Master Settlement Agreement Fund 50
distributions, to increase the cigarette 51
wholesaler's markup, to expand the uses of the 52
Corporate and Uniform Commercial Code Filing Fund, 53
to revise provisions of the TANF Housing Program 54
within the Department of Development, to authorize 55
transfers from the Budget Stabilization Fund to the 56
General Revenue Fund, to clarify the application of 57
the "in lieu of other tax" exemption regarding 58

As Reported by the Committee of Conference

certain dealers in intangibles, to modify the 59
"deposits only" apportionment fraction for certain 60
financial institutions, to establish the Capital 61
Access Program in the Department of Development, to 62
create a nonrefundable credit against the corporate 63
franchise and personal income taxes for job 64
retention, to exempt temporarily certain new 65
high-technology companies from the net worth 66
calculation of the corporate franchise tax, to 67
establish the Rural Development Initiative Fund in 68
the state treasury, and to permit the disbursement 69
of grants from that fund in conjunction with loans 70
from the Rural Industrial Park Loan Program, to 71
extend the sunset of the Rural Industrial Park Loan 72
Program to July 1, 2007, to permit political 73
subdivisions in economically distressed areas to 74
employ tax increment financing throughout a 75
designated incentive district, to modify other tax 76
increment financing provisions, to revise the 77
criteria for the award and use of certain TANF 78
Funds for Appalachia, to permit a county to enter 79
into an agreement with a political subdivision 80
authorizing the county to receive payments of 81
certain revenue in the county treasury that are due 82
a political subdivision as a credit against amounts 83
otherwise owed to the county, to require the 84
Department of Education in fiscal years 2002 and
2003 only to pay a subsidy to certain community
schools in which at least half of the total number
of students enrolled are severe behaviorally
handicapped students, to specify control over Ohio
Government Telecommunications and associated funds,
to require the State Lottery Commission to enter

As Reported by the Committee of Conference

into a multistate lottery if the Governor so directs, modifies the liability of county recorders, to increase the membership of the Nursing Facility Reimbursement Study Council, to create a committee to study the impact of gambling, to permit certain nursing homes to apply for Medicare certification of certain beds, to revise the requirement for independent healthcare actuarial reviews of mandated benefits, to reduce the cigarette tax stump discount, to eliminate a study of road and bridge funding mandates, to make corrections, to repeal section 307.6910 of the Revised Code effective July 1, 2007, and to make appropriations.

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

Section 1. That sections 103.144, 103.145, 103.146, 122.15, 145.01, 149.07, 166.03, 183.02, 317.33, 742.01, 1309.528, 1333.11, 3307.01, 3309.01, 3313.37, 3313.375, 3318.31, 3353.07, 3353.11, 3770.02, 3770.03, 3770.06, 5111.34, 5111.872, 5123.043, 5123.046, 5123.048, 5123.049, 5123.0411, 5126.01, 5126.02, 5126.021, 5126.033, 5126.035, 5126.036, 5126.042, 5126.046, 5126.05, 5126.054, 5126.055, 5126.06, 5126.14, 5126.15, 5126.17, 5126.18, 5126.19, 5126.221, 5126.357, 5505.01, 5705.44, 5709.12, 5709.121, 5709.17, 5709.40, 5709.411, 5709.43, 5709.73, 5709.74, 5709.75, 5709.77, 5709.78, 5709.79, 5709.80, 5709.81, 5725.14, 5725.24, 5725.25, 5725.26, 5733.056, 5733.06, 5733.0610, 5733.09, 5733.11, 5733.98, 5739.01, 5741.01, 5743.05, 5747.058, 5747.13, 5747.98, 5923.05, and 5923.051 be amended, section 5126.056 (5126.057) be amended for the purpose of adopting a new section number as indicated in parentheses, and new section 5126.056 and sections 122.171, 122.60, 122.601, 122.602, 122.603, 122.604, 122.605,

307.6910, 5733.45, 5739.012, and 5741.011 of the Revised Code be enacted to read as follows:

Sec. 103.144. As used in sections 103.144 to ~~103.147~~ 103.146 of the Revised Code:

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

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

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

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

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

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

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

(B) "Mandated benefit" does not include any required coverage or offer of coverage, any required expansion of, or addition to, existing coverage, or any mandated reimbursement amount to specific providers, as described in division (A) of this section, within the context of any public health benefits arrangement, including but not limited to, the coverage of beneficiaries enrolled in Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, pursuant to a medicare risk

contract or medicare cost contract, or to the coverage of
beneficiaries enrolled in Title XIX of the "Social Security Act,"
49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the
medical assistance program or medicaid, provided by the Ohio
department of job and family services under Chapter 5111. of the
Revised Code.

Sec. 103.145. (A) ~~Whenever any bill receives~~ The chairperson
~~of a second hearing in a~~ standing committee ~~in the~~ of either house
of the general assembly ~~in which the bill originated~~ may, at any
time, request the director of the legislative budget officer shall
service commission to review the any bill that is assigned to the
chairperson's committee in order to determine whether the bill
includes a mandated benefit. The director shall review the bill
and notify the chairperson of the director's determination. If the
~~legislative budget officer~~ director determines that the bill
includes a mandated benefit, ~~the legislative budget officer shall~~
presiding officer of the house that is considering the bill may
request the director to arrange for the performance of an
independent healthcare actuarial review of the mandated benefit.
In making this arrangement, ~~the legislative budget officer~~
director shall retain one or more independent actuaries on a
consulting basis to determine the financial impact of the mandated
benefit in accordance with section 103.146 of the Revised Code.
Each actuary retained shall be a member in good standing of the
American academy of actuaries. ~~The legislative budget officer~~
director shall assist the actuary or actuaries in obtaining any
information needed.

No later than sixty days after receiving the ~~second hearing~~
presiding officer's request to arrange for the performance of the
~~bill~~ actuarial review, ~~the legislative budget officer~~ director
shall submit the findings of the actuarial review to the
chairperson of the committee to which the bill is assigned and to

the ranking minority member of that committee. 65

(B) To assist the actuary or actuaries in obtaining 66
information needed to perform the healthcare actuarial review, the 67
legislative ~~budget office of the legislative~~ service commission 68
may request any department, division, institution, board, 69
commission, authority, bureau, or other instrumentality or officer 70
of the state, a county, a municipal corporation, a township, a 71
school district, or other governmental entity of the state to 72
provide any information the ~~legislative budget office~~ commission 73
requires for purposes of the review. 74

An instrumentality, officer, or entity shall comply with a 75
request as soon as reasonably possible after receiving it. The 76
~~legislative budget office~~ commission shall specify the manner of 77
compliance, and the period of time for compliance, in its request. 78

Sec. 103.146. In performing an independent healthcare 79
actuarial review of a mandated benefit, the actuary or actuaries 80
retained by the director of the legislative ~~budget officer~~ service 81
commission shall consult with professionals knowledgeable in 82
matters related to the performance of an actuarial review of a 83
mandated benefit and shall consider the results of any 84
professionally acceptable controlled trial and any other relevant 85
research specifically centered around the benefit. The actuary or 86
actuaries shall determine the extent to which: 87

(A) The mandated benefit will increase or decrease the 88
administrative expenses of insurance companies and health insuring 89
corporations; 90

(B) The mandated benefit will increase or decrease premiums; 91

(C) Small employers, medium-sized employers, large employers, 92
and, if applicable, the state and political subdivisions of the 93
state, will be financially impacted; 94

(D) The mandated benefit will increase or decrease the number 95
of insured individuals in this state; and 96

(E) The mandated benefit will impact the total cost and 97
quality of health care, including any potential cost savings that 98
may be realized. 99

Sec. 122.15. As used in sections 122.15 to 122.154 of the 100
Revised Code: 101

(A) "Edison center" means a cooperative research and 102
development facility that receives funding through the Thomas Alva 103
Edison grant program under division (C) of section 122.33 of the 104
Revised Code. 105

(B) "Ohio entity" means any corporation, limited liability 106
company, or unincorporated business organization, including a 107
general or limited partnership, that has its principal place of 108
business located in this state and has at least fifty per cent of 109
its gross assets and fifty per cent of its employees located in 110
this state. If a corporation, limited liability company, or 111
unincorporated business organization is a member of an affiliated 112
group, the gross assets and the number of employees of all of the 113
members of that affiliated group, wherever those assets and 114
employees are located, shall be included for the purpose of 115
determining the percentage of the corporation's, company's, or 116
organization's gross assets and employees that are located in this 117
state. 118

(C) "Qualified trade or business" means any trade or business 119
that primarily involves research and development, technology 120
transfer, bio-technology, information technology, or the 121
application of new technology developed through research and 122
development or acquired through technology transfer. "Qualified 123
trade or business" does not include any of the following: 124

(1) Any trade or business involving the performance of	125
services in the field of law, engineering, architecture,	126
accounting, actuarial science, performing arts, consulting,	127
athletics, financial services, or brokerage services, or any trade	128
or business where the principal asset of the trade or business is	129
the reputation or skill of one or more of its employees;	130
(2) Any banking, insurance, financing, leasing, rental,	131
investing, or similar business;	132
(3) Any farming business, including the business of raising	133
or harvesting trees;	134
(4) Any business involving the production or extraction of	135
products of a character with respect to which a deduction is	136
allowable under section 611, 613, or 613A of the "Internal Revenue	137
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 611, 613, or 613A;	138
(5) Any business of operating a hotel, motel, restaurant, or	139
similar business;	140
(6) Any trade or business involving a hospital, a private	141
office of a licensed health care professional, a group practice of	142
licensed health care professionals, or a nursing home. As used in	143
division (C)(6) of this section:	144
(a) "Nursing home" has the same meaning as in section 3721.50	145
of the Revised Code.	146
(b) "Hospital" has the same meaning as in section 3727.01 of	147
the Revised Code.	148
(D) <u>"Information technology" means the branch of technology</u>	149
<u>devoted to the study and application of data and the processing</u>	150
<u>thereof; the automatic acquisition, storage, manipulation or</u>	151
<u>transformation, management, movement, control, display, switching,</u>	152
<u>interchange, transmission or reception of data, and the</u>	153
<u>development or use of hardware, software, firmware, and procedures</u>	154

associated with this processing. Information technology includes 155
matters concerned with the furtherance of computer science and 156
technology, design, development, installation and implementation 157
of information systems and applications that in turn will be 158
licensed or sold to a specific target market. Information 159
technology does not include the creation of a distribution method 160
for existing products and services. 161

(E) "Insider" means an individual who owns, controls, or 162
holds power to vote five per cent or more of the outstanding 163
securities of a business. For purposes of determining whether an 164
investor is an insider, the percentage of voting power in the Ohio 165
entity held by a person related to the investor shall be added to 166
the investor's percentage of voting power in the same Ohio entity, 167
if the investor claimed the person related to the investor as a 168
dependent or a spouse on the investor's federal income tax return 169
for the previous tax year. 170

~~(E)~~(F) "Related to" means being the spouse, parent, child, or 171
sibling of an individual. 172

~~(F)~~(G) "Research and development" means designing, creating, 173
or formulating new or enhanced products, equipment, or processes, 174
and conducting scientific or technological inquiry and 175
experimentation in the physical sciences with the goal of 176
increasing scientific knowledge that may reveal the bases for new 177
or enhanced products, equipment, or processes. 178

~~(G)~~(H) "State tax liability" means any tax liability incurred 179
under division (D) of section 5707.03, section 5727.24, 5727.38, 180
or 5747.02, or Chapter 5733. of the Revised Code. 181

~~(H)~~(I) "Technology transfer" means the transfer of technology 182
from one sector of the economy to another, including the transfer 183
of military technology to civilian applications, civilian 184
technology to military applications, or technology from public or 185
private research laboratories to military or civilian 186

applications. 187

~~(I)~~(J) "Affiliated group" means two or more persons related 188
in such a way that one of the persons owns or controls the 189
business operations of another of those persons. In the case of a 190
corporation issuing capital stock, one corporation owns or 191
controls the business operations of another corporation if it owns 192
more than fifty per cent of the other corporation's capital stock 193
with voting rights. In the case of a limited liability company, 194
one person owns or controls the business operations of the company 195
if that person's membership interest, as defined in section 196
1705.01 of the Revised Code, is greater than fifty per cent of 197
combined membership interest of all persons owning such interests 198
in the company. In the case of an unincorporated business 199
organization, one person owns or controls the business operations 200
of the organization if, under the articles of organization or 201
other instrument governing the affairs of the organization, that 202
person has a beneficial interest in the organization's profits, 203
surpluses, losses, or other distributions greater than fifty per 204
cent of the combined beneficial interests of all persons having 205
such an interest in the organization. 206

~~(J)~~(K) "Money" means United States currency, or a check, 207
draft, or cashier's check for United States currency, payable on 208
demand and drawn on a bank. 209

Sec. 122.171. (A) As used in this section: 210

(1) "Capital investment project" means a plan of investment 211
at a project site for the acquisition, construction, renovation, 212
or repair of buildings, machinery, or equipment, but does not 213
include any of the following: 214

(a) Payments made for the acquisition of personal property 215
through operating leases; 216

(b) Project costs paid before January 1, 2002, or after 217

December 31, 2006;

218

(c) Payments made to a related member as defined in section
5733.042 of the Revised Code.

219

220

(2) "Eligible business" means a business with Ohio operations
that:

221

222

(a) Employed an average of at least one thousand employees in
full-time employment positions at a project site during each of
the twelve months preceding the application for a tax credit under
this section; and

223

224

225

226

(b) On or after January 1, 2002, has made payments for the
capital investment project of at least two hundred million dollars
at the project site during a period of three consecutive calendar
years that includes the calendar year that includes a day of the
taxpayer's taxable year with respect to which the credit is
granted;

227

228

229

230

231

232

(c) Has had a capital investment project reviewed and
approved by the tax credit authority as provided in divisions (C),
(D), and (E) of this section.

233

234

235

(3) "Full-time employment position" means a position of
employment for consideration for at least thirty-five hours a
week, or any other standard of service generally accepted by
custom as full-time employment within the industry, that has been
filled for at least one hundred eighty days immediately preceding
the filing of an application under this section, and for at least
one hundred eighty days during each taxable year with respect to
which the credit is granted.

236

237

238

239

240

241

242

243

(4) "Project site" means an integrated complex, as specified
by the tax credit authority under this section, within a five-mile
radius where a taxpayer in this state is primarily operating as a
manufacturer as defined in section 5739.011 of the Revised Code.

244

245

246

247

(B) The tax credit authority created under section 122.17 of 248
the Revised Code may grant tax credits under this section for the 249
purpose of fostering job retention in this state. Upon application 250
by an eligible business and upon consideration of the 251
recommendation of the director of budget and management, tax 252
commissioner, and director of development under division (C) of 253
this section, the tax credit authority may grant to an eligible 254
business a nonrefundable credit against the tax imposed by section 255
5733.06 or 5747.02 of the Revised Code for a period up to ten 256
taxable years. The credit shall be in an amount not exceeding 257
seventy-five per cent of the Ohio income tax withheld from the 258
employees of the eligible business occupying full-time employment 259
positions at the project site during the calendar year that 260
includes the last day of such business' taxable year with respect 261
to which the credit is granted. The amount of the credit shall not 262
be based on the Ohio income tax withheld from full-time employees 263
for a calendar year prior to the calendar year in which the two 264
hundred million dollar minimum investment referred to in division 265
(A)(2)(b) of this section is completed. The credit shall be 266
claimed only for the taxable years specified in the eligible 267
business' agreement with the tax credit authority under division 268
(E) of this section, but in no event shall the credit be claimed 269
for a taxable year terminating before the date specified in the 270
agreement. 271

Any unused portion of a tax credit may be carried forward for 272
not more than three additional years after the year for which the 273
credit is granted. 274

(C) A taxpayer who proposes a capital investment project to 275
retain jobs in this state may apply to the tax credit authority to 276
enter into an agreement for a tax credit under this section. The 277
director of development shall prescribe the form of the 278
application. After receipt of an application, the authority shall 279

forward copies of the application to the director of budget and
management, the tax commissioner, and the director of development,
each of whom shall review the application to determine the
economic impact the proposed project would have on the state and
the affected political subdivisions and shall submit a summary of
their determinations and recommendations to the authority. The
authority shall make no agreements under this section after June
30, 2007.

(D) Upon review of the determinations and recommendations
described in division (C) of this section, the tax credit
authority may enter into an agreement with the taxpayer for a
credit under this section if it determines all of the following:

(1) The taxpayer's capital investment project will result in
the retention of full-time employment positions in this state.

(2) The taxpayer is economically sound and has the ability to
complete the proposed capital investment project.

(3) The taxpayer intends to and has the ability to maintain
operations at the project site for at least twice the term of the
credit.

(4) Receiving the credit is a major factor in the taxpayer's
decision to begin, continue with, or complete the project.

(5) The political subdivisions in which the project is
located have agreed to provide substantial financial support to
the project.

(E) An agreement under this section shall include all of the
following:

(1) A detailed description of the project that is the subject
of the agreement, including the amount of the investment, the
period over which the investment has been or is being made, and
the number of full-time employment positions at the project site;

310

(2) The method of calculating the number of full-time 311
employment positions as specified in division (A)(3) of this 312
section; 313

(3) The term and percentage of the tax credit, and the first 314
year for which the credit may be claimed; 315

(4) A requirement that the taxpayer maintain operations at 316
the project site for at least twice the number of years as the 317
term of the credit; 318

(5) A requirement that the taxpayer retain a specified number 319
of full-time employment positions at the project site and within 320
this state for the term of the credit, including a requirement 321
that the taxpayer continue to employ at least one thousand 322
employees in full-time employment positions at the project site 323
during the entire term of any agreement, subject to division 324
(E)(7) of this section; 325

(6) A requirement that the taxpayer annually report to the 326
director of development the number of full-time employment 327
positions subject to the credit, the amount of tax withheld from 328
employees in those positions, the amount of the payments made for 329
the capital investment project, and any other information the 330
director needs to perform the director's duties under this 331
section; 332

(7) A requirement that the director of development annually 333
review the annual reports of the taxpayer to verify the 334
information reported under division (E)(6) of this section and 335
compliance with the agreement. Upon verification, the director 336
shall issue a certificate to the taxpayer stating that the 337
information has been verified and identifying the amount of the 338
credit for the taxable year. The director shall not issue a 339
certificate for any year in which the total number of filled 340

full-time employment positions for each day of the calendar year
divided by three hundred sixty-five is less than ninety per cent
of the full-time employment positions specified in division (E)(5)
of this section. In determining the number of full-time employment
positions, no position shall be counted that is filled by an
employee who is included in the calculation of a tax credit under
section 122.17 of the Revised Code.

(8)(a) A provision requiring that the taxpayer, except as
otherwise provided in division (E)(8)(b) of this section, shall
not relocate employment positions from elsewhere in this state to
the project site that is the subject of the agreement for the
lesser of five years from the date the agreement is entered into
or the number of years the taxpayer is entitled to claim the
credit.

(b) The taxpayer may relocate employment positions from
elsewhere in this state to the project site that is the subject of
the agreement if the director of development determines both of
the following:

(i) That the site from which the employment positions would
be relocated is inadequate to meet market and industry conditions,
expansion plans, consolidation plans, or other business
considerations affecting the taxpayer;

(ii) That the legislative authority of the county, township,
or municipal corporation from which the employment positions would
be relocated has been notified of the relocation.

For purposes of this section, the movement of an employment
position from one political subdivision to another political
subdivision shall be considered a relocation of an employment
position unless the movement is confined to the project site. The
transfer of an individual employee from one political subdivision
to another political subdivision shall not be considered a

relocation of an employment position as long as the individual's
employment position in the first political subdivision is
refilled.

372
373
374

(9) A waiver by the taxpayer of any limitations periods
relating to assessments or adjustments resulting from the
taxpayer's failure to comply with the agreement.

375
376
377

(F) If a taxpayer fails to meet or comply with any condition
or requirement set forth in a tax credit agreement, the tax credit
authority may amend the agreement to reduce the percentage or term
of the credit. The reduction of the percentage or term shall take
effect in the taxable year immediately following the taxable year
in which the authority amends the agreement. If the taxpayer
relocates employment positions in violation of the provision
required under division (D)(8)(a) of this section, the taxpayer
shall not claim the tax credit under section 5733.0610 of the
Revised Code for any tax years following the calendar year in
which the relocation occurs, or shall not claim the tax credit
under section 5747.058 of the Revised Code for the taxable year in
which the relocation occurs and any subsequent taxable years.

378
379
380
381
382
383
384
385
386
387
388
389
390

(G) Financial statements and other information submitted to
the department of development or the tax credit authority by an
applicant for or recipient of a tax credit under this section, and
any information taken for any purpose from such statements or
information, are not public records subject to section 149.43 of
the Revised Code. However, the chairperson of the authority may
make use of the statements and other information for purposes of
issuing public reports or in connection with court proceedings
concerning tax credit agreements under this section. Upon the
request of the tax commissioner, the chairperson of the authority
shall provide to the commissioner any statement or other
information submitted by an applicant for or recipient of a tax
credit in connection with the credit. The commissioner shall

391
392
393
394
395
396
397
398
399
400
401
402
403

preserve the confidentiality of the statement or other
information.

(H) A taxpayer claiming a tax credit under this section shall
submit to the tax commissioner a copy of the director of
development's certificate of verification under division (E)(7) of
this section for the taxable year. However, failure to submit a
copy of the certificate does not invalidate a claim for a credit.

(I) For the purposes of this section, a taxpayer may include
a partnership, a corporation that has made an election under
subchapter S of chapter one of subtitle A of the Internal Revenue
Code, or any other business entity through which income flows as a
distributive share to its owners. A tax credit received under this
section by a partnership, S-corporation, or other such business
entity shall be apportioned among the persons to whom the income
or profit of the partnership, S-corporation, or other entity is
distributed, in the same proportions as those in which the income
or profit is distributed.

(J) If the director of development determines that a taxpayer
who has received a tax credit under this section is not complying
with the requirement under division (E)(4) of this section or
reduces the number of employees agreed to under division (E)(5) of
this section by more than ten per cent, the director shall notify
the tax credit authority of the noncompliance. After receiving
such a notice, and after giving the taxpayer an opportunity to
explain the noncompliance, the authority may terminate the
agreement and require the taxpayer to refund to the state all or a
portion of the credit claimed in previous years.

In determining the portion of the credit to be refunded to
this state, the authority shall consider the effect of market
conditions on the taxpayer's project and whether the taxpayer
continues to maintain other operations in this state. After making

the determination, the authority shall certify the amount to be
refunded to the tax commissioner. The commissioner shall make an
assessment for that amount against the taxpayer under Chapter
5733. or 5747. of the Revised Code. The time limitations on
assessments under Chapter 5733. or 5747. of the Revised Code do
not apply to an assessment under this division, but the
commissioner shall make the assessment within one year after the
date the authority certifies to the commissioner the amount to be
refunded.

(K) The director of development, after consultation with the
tax commissioner and in accordance with Chapter 119. of the
Revised Code, shall adopt rules necessary to implement this
section. The rules may provide for recipients of tax credits under
this section to be charged fees to cover administrative costs of
the tax credit program. At the time the director gives public
notice under division (A) of section 119.03 of the Revised Code of
the adoption of the rules, the director shall submit copies of the
proposed rules to the chairpersons of the standing committees on
economic development in the senate and the house of
representatives.

(L) On or before the thirty-first day of March of each year,
the director of development shall submit a report to the governor,
the president of the senate, and the speaker of the house of
representatives on the tax credit program under this section. The
report shall include information on the number of agreements that
were entered into under this section during the preceding calendar
year, a description of the project that is the subject of each
such agreement, and an update on the status of projects under
agreements entered into before the preceding calendar year.

Sec. 122.60. As used in sections 122.60 to 122.605 of the
Revised Code:

(A) "Capital access loan" means a loan made by a 467
participating financial institution to an eligible business that 468
may be secured by a deposit of money from the fund into the 469
participating financial institution's program reserve account. 470

(B) "Department" means the department of development. 471

(C) "Eligible business" means a for-profit business entity, 472
or a nonprofit entity, that had total annual sales in its most 473
recently completed fiscal year of less than ten million dollars 474
and that has a principal place of for-profit business or nonprofit 475
entity activity within the state, the operation of which, alone or 476
in conjunction with other facilities, will create new jobs or 477
preserve existing jobs and employment opportunities and will 478
improve the economic welfare of the people of the state. As used 479
in this division, "new jobs" does not include existing jobs 480
transferred from another facility within the state, and "existing 481
jobs" means only existing jobs at facilities within the same 482
municipal corporation or township in which the project, activity, 483
or enterprise that is the subject of a capital access loan is 484
located. 485

(D) "Financial institution" means any bank, trust company, 486
savings bank, or savings and loan association that is chartered by 487
and has a significant presence in the state, or any national bank, 488
federal savings and loan association, or federal savings bank that 489
has a significant presence in the state. 490

(E) "Fund" means the capital access loan program fund. 491

(F) "Participating financial institution" means a financial 492
institution that has a valid, current participation agreement with 493
the department. 494

(G) "Participation agreement" means the agreement between a 495
financial institution and the department under which a financial 496
institution may participate in the program. 497

(H) "Passive real estate ownership" means the ownership of 498
real estate for the sole purpose of deriving income from it by 499
speculation, trade, or rental. 500

(I) "Program" means the capital access loan program created 501
under section 122.602 of the Revised Code. 502

(J) "Program reserve account" means a dedicated account at 503
each participating financial institution that is the property of 504
the state and may be used by the participating financial 505
institution only for the purpose of recovering a claim under 506
section 122.604 of the Revised Code arising from a default on a 507
loan made by the participating financial institution under the 508
program. 509

Sec. 122.601. There is hereby created in the state treasury 510
the capital access loan program fund. The fund shall consist of 511
money deposited into it from the facilities establishment fund 512
pursuant to section 166.03 of the Revised Code and all money 513
deposited into it pursuant to section 122.602 of the Revised Code. 514
The total amount of money deposited into the fund from the 515
facilities establishment fund shall not exceed three million 516
dollars during any particular fiscal year of the department. 517

The department shall disburse money from the fund only to pay 518
the operating costs of the program, including the administrative 519
costs incurred by the department in connection with the program, 520
and only in keeping with the purposes specified in sections 122.60 521
to 122.605 of the Revised Code. 522

Sec. 122.602. (A) There is hereby created in the department 523
of development the capital access loan program to assist 524
participating financial institutions in making program loans to 525
eligible businesses that face barriers in accessing working 526
capital and obtaining fixed asset financing. In administering the 527

program, the director of development may do any of the following: 528

(1) Receive and accept grants, gifts, and contributions of 529
money, property, labor, and other things of value to be held, 530
used, and applied only for the purpose for which the grants, 531
gifts, and contributions are made, from individuals, private and 532
public corporations, the United States or any agency of the United 533
States, the state or any agency of the state, or any political 534
subdivision of the state; 535

(2) Agree to repay any contribution of money or return any 536
property contributed or the value of that property at the times, 537
in the amounts, and on the terms and conditions, excluding the 538
payment of interest, that the director consents to at the time a 539
contribution is made; and evidence obligations by notes, bonds, or 540
other written instruments; 541

(3) Adopt rules under Chapter 119. of the Revised Code to 542
carry out the purposes of the program specified in sections 122.60 543
to 122.605 of the Revised Code; 544

(4) Engage in all other acts, and enter into contracts and 545
execute all instruments, necessary or appropriate to carry out the 546
purposes specified in sections 122.60 to 122.605 of the Revised 547
Code. 548

(B) The director shall determine the eligibility of a 549
financial institution to participate in the program and may set a 550
limit on the number of financial institutions that may participate 551
in the program. 552

(C) To be considered eligible by the director to participate 553
in the program, a financial institution shall enter into a 554
participation agreement with the department that sets out the 555
terms and conditions under which the department will deposit 556
moneys from the fund into the financial institution's program 557
reserve account, specifies the criteria for loan qualification 558

under the program, and contains any additional terms the director
considers necessary.

(D) After receiving the certification required under division
(C) of section 122.603 of the Revised Code, the director may
disburse moneys from the fund to a participating financial
institution for deposit in its program reserve account if the
director determines that the capital access loan involved meets
all of the following criteria:

(1) It will be made to an eligible business.

(2) It will be used by the eligible business for a project,
activity, or enterprise that fosters economic development.

(3) It will not be made in order to enroll in the program
prior debt that is not covered under the program and that is owed
or was previously owed by an eligible business to the financial
institution.

(4) It will not be utilized for a project or development
related to the on-site construction or purchase of residential
housing.

(5) It will not be used to finance passive real estate
ownership.

(6) It conforms to the requirements of divisions (E), (F),
(G), (H), and (I) of this section, and to the rules adopted by the
director under division (A)(3) of this section.

(E) The director shall not approve a capital access loan to
an eligible business that exceeds two hundred fifty thousand
dollars for working capital or five hundred thousand dollars for
the purchase of fixed assets. An eligible business may apply for
the maximum amount of both working capital and the purchase of
fixed assets in the same capital access loan.

(F) A financial institution may apply to the director for the

approval of a capital access loan to any business that is owned or 589
operated by a person that has previously defaulted under any state 590
financial assistance program. 591

(G) Eligible businesses that apply for a capital access loan 592
shall comply with section 9.66 of the Revised Code. 593

(H) A financial institution may apply to the director for the 594
approval of a capital access loan that refinances a nonprogram 595
loan made by another financial institution. 596

(I) The director shall not approve a capital access loan that 597
refinances a nonprogram loan made by the same financial 598
institution, unless the amount of the refinanced loan exceeds the 599
existing debt, in which case only the amount exceeding the 600
existing debt is eligible for a loan under the program. 601

(J) The director shall not approve any capital access loan 602
made after June 30, 2007, or enter into a participation agreement 603
with any financial institution after that date. 604

Sec. 122.603. (A)(1) Upon approval by the director of 605
development and after entering into a participation agreement with 606
the department of development, a participating financial 607
institution making a capital access loan shall establish a program 608
reserve account. The account shall be an interest-bearing account 609
and shall contain only moneys deposited into it under the program 610
and the interest payable on the moneys in the account. 611

(2) All interest payable on the moneys in the program reserve 612
account shall be added to the moneys and held as an additional 613
loss reserve. The director may require that a portion or all of 614
the accrued interest so held in the account be released to the 615
department. If the director causes a release of accrued interest, 616
the director shall deposit the released amount into the fund. The 617
director shall not require the release of that accrued interest 618

more than twice in a fiscal year.

(B) When a participating financial institution makes a capital access loan, it shall require the eligible business to pay to the participating financial institution a fee in an amount that is not less than one and one-half per cent, and not more than three per cent, of the principal amount of the loan. The participating financial institution shall deposit the fee into its program reserve account, and it also shall deposit into the account an amount of its own funds equal to the amount of the fee. The participating financial institution may recover from the eligible business all or part of the amount that the participating financial institution is required to deposit into the account under this division in any manner agreed to by the participating financial institution and the eligible business.

(C) For each capital access loan made by a participating financial institution, the participating financial institution shall certify to the director, within a period specified by the director, that the participating financial institution has made the loan. The certification shall include the amount of the loan, the amount of the fee received from the eligible business, the amount of its own funds that the participating financial institution deposited into its program reserve account to reflect that fee, and any other information specified by the director.

(D) On receipt of a certification made under division (C) of this section and subject to section 122.602 of the Revised Code, the director shall disburse to the participating financial institution from the fund an amount equal to ten per cent of the principal amount of the particular capital access loan for deposit into the participating financial institution's program reserve account. The disbursement of moneys from the fund to a participating financial institution does not require approval from the controlling board.

(E) If the amount in a program reserve account exceeds an 651
amount equal to thirty-three per cent of a participating financial 652
institution's outstanding capital access loans, the department may 653
cause the withdrawal of the excess amount and the deposit of the 654
withdrawn amount into the fund. 655

(F)(1) The department may cause the withdrawal of the total 656
amount in a participating financial institution's program reserve 657
account if any of the following applies: 658

(a) The financial institution is no longer eligible to 659
participate in the program. 660

(b) The participation agreement expires without renewal by 661
the department or the financial institution. 662

(c) The financial institution has no outstanding capital 663
access loans. 664

(d) The financial institution has not made a capital access 665
loan within the preceding twenty-four months. 666

(2) If the department causes a withdrawal under division 667
(F)(1) of this section, the department shall deposit the withdrawn 668
amount into the fund. 669

Sec. 122.604. (A) If a participating financial institution 670
determines that a portion or all of a capital access loan is 671
uncollectible, it may submit a claim to the department of 672
development for approval of the release of moneys from its program 673
reserve account. 674

(B) The claim may include the amount of principal plus 675
accrued interest owed. The amount of principal included in the 676
claim may not exceed the principal amount covered by the program. 677
The amount of accrued interest included in the claim may not 678
exceed the accrued interest attributable to the covered principal 679
amount. 680

(C) The participating financial institution shall determine 681
the timing and amount of delinquency on a capital access loan in a 682
manner consistent with the participating financial institution's 683
normal method for making these determinations on similar 684
nonprogram loans. 685

(D) If the participating financial institution files two or 686
more claims at the same time or approximately the same time and 687
there are insufficient funds in its program reserve account at 688
that time to cover the entire amount of the claims, the 689
participating financial institution may specify an order of 690
priority in which the department shall approve the release of 691
funds from the account in relation to the claims. 692

(E) If subsequent to the payment of a claim, a participating 693
financial institution recovers from an eligible business any 694
amount covered by the paid claim, the participating financial 695
institution shall promptly deposit the amount recovered into its 696
program reserve account, less any reasonable expenses incurred. 697

Sec. 122.605. Each participating financial institution shall 698
submit an annual report to the department of development on or 699
before the thirty-first day of March of each year. The report 700
shall include or be accompanied by all of the following: 701

(A) Information regarding the participating financial 702
institution's outstanding capital access loans, its capital access 703
loan losses, and other related matters that the department 704
considers appropriate; 705

(B) A statement of the total amount of the participating 706
financial institution's capital access loans for which the 707
department has made disbursements from the fund under the program; 708

(C) A copy of the participating financial institution's most 709
recent financial statement. 710

Sec. 145.01. As used in this chapter: 12

(A) "Public employee" means: 13

(1) Any person holding an office, not elective, under the 14
state or any county, township, municipal corporation, park 15
district, conservancy district, sanitary district, health 16
district, metropolitan housing authority, state retirement board, 17
Ohio historical society, public library, county law library, union 18
cemetery, joint hospital, institutional commissary, state 19
university, or board, bureau, commission, council, committee, 20
authority, or administrative body as the same are, or have been, 21
created by action of the general assembly or by the legislative 22
authority of any of the units of local government named in 23
division (A)(1) of this section, or employed and paid in whole or 24
in part by the state or any of the authorities named in division 25
(A)(1) of this section in any capacity not covered by section 26
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 27

(2) A person who is a member of the public employees 28
retirement system and who continues to perform the same or similar 29
duties under the direction of a contractor who has contracted to 30
take over what before the date of the contract was a publicly 31
operated function. The governmental unit with which the contract 32
has been made shall be deemed the employer for the purposes of 33
administering this chapter. 34

(3) Any person who is an employee of a public employer, 35
notwithstanding that the person's compensation for that employment 36
is derived from funds of a person or entity other than the 37
employer. Credit for such service shall be included as total 38
service credit, provided that the employee makes the payments 39
required by this chapter, and the employer makes the payments 40
required by sections 145.48 and 145.51 of the Revised Code. 41

(4) A person who elects in accordance with section 145.015 of 42

the Revised Code to remain a contributing member of the public
employees retirement system.

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

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

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

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

(E) "Prior service" means all service as a public employee 74
rendered before January 1, 1935, and all service as an employee of 75
any employer who comes within the state teachers retirement system 76
or of the school employees retirement system or of any other 77
retirement system established under the laws of this state 78
rendered prior to January 1, 1935, provided that if the employee 79
claiming the service was employed in any capacity covered by that 80
other system after that other system was established, credit for 81
the service may be allowed by the public employees retirement 82
system only when the employee has made payment, to be computed on 83
the salary earned from the date of appointment to the date 84
membership was established in the public employees retirement 85
system, at the rate in effect at the time of payment, and the 86
employer has made payment of the corresponding full liability as 87
provided by section 145.44 of the Revised Code. "Prior service" 88
also means all service credited for active duty with the armed 89
forces of the United States as provided in section 145.30 of the 90
Revised Code. 91

If an employee who has been granted prior service credit by 92
the public employees retirement system for service rendered prior 93
to January 1, 1935, as an employee of a board of education 94
establishes, before retirement, one year or more of contributing 95
service in the state teachers retirement system or school 96
employees retirement system, then the prior service ceases to be 97
the liability of this system. 98

If the board determines that a position of any member in any 99
calendar year prior to January 1, 1935, was a part-time position, 100
the board shall determine what fractional part of a year's credit 101
shall be allowed by the following formula: 102

(1) When the member has been either elected or appointed to 103
an office the term of which was two or more years and for which an 104
annual salary is established, the fractional part of the year's 105

credit shall be computed as follows:

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

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

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

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

(F) "Contributor" means any person who has an account in the employees' savings fund created by section 145.23 of the Revised Code. When used in the sections listed in division (B) of section 145.82 of the Revised Code, "contributor" includes any person participating in a plan established under section 145.81 of the Revised Code.

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

(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including

restored service credit as provided by section 145.31 of the
Revised Code; credit purchased under sections 145.293 and 145.299
of the Revised Code; all the member's prior service credit; all
the member's military service credit computed as provided in this
chapter; all service credit established pursuant to section
145.297 of the Revised Code; and any other service credited under
this chapter. In addition, "total service credit" includes any
period, not in excess of three years, during which a member was
out of service and receiving benefits under Chapters 4121. and
4123. of the Revised Code. For the exclusive purpose of satisfying
the service credit requirement and of determining eligibility for
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36,
and 145.361 of the Revised Code, "five or more years of total
service credit" means sixty or more calendar months of
contributing service in this system.

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

(3) Where a member also is a member of the state teachers
retirement system or the school employees retirement system, or
both, except in cases of retirement on a combined basis pursuant

to section 145.37 of the Revised Code or as provided in section
145.383 of the Revised Code, service credit for any period shall
be credited on the basis of the ratio that contributions to the
public employees retirement system bear to total contributions in
all state retirement systems.

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

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

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

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

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

(2) If a member has less than three years of contributing
service, the member's final average salary shall be the member's
total earnable salary divided by the total number of years,

including any fraction of a year, of the member's contributing 200
service. 201

(3) For the purpose of calculating benefits payable to a 202
member qualifying for service credit under division (Z) of this 203
section, "final average salary" means the total earnable salary on 204
which contributions were made divided by the total number of years 205
during which contributions were made, including any fraction of a 206
year. If contributions were made for less than twelve months, 207
"final average salary" means the member's total earnable salary. 208

(L) "Annuity" means payments for life derived from 209
contributions made by a contributor and paid from the annuity and 210
pension reserve fund as provided in this chapter. All annuities 211
shall be paid in twelve equal monthly installments. 212

(M) "Annuity reserve" means the present value, computed upon 213
the basis of the mortality and other tables adopted by the board, 214
of all payments to be made on account of any annuity, or benefit 215
in lieu of any annuity, granted to a retirant as provided in this 216
chapter. 217

(N)(1) "Disability retirement" means retirement as provided 218
in section 145.36 of the Revised Code. 219

(2) "Disability allowance" means an allowance paid on account 220
of disability under section 145.361 of the Revised Code. 221

(3) "Disability benefit" means a benefit paid as disability 222
retirement under section 145.36 of the Revised Code, as a 223
disability allowance under section 145.361 of the Revised Code, or 224
as a disability benefit under section 145.37 of the Revised Code. 225

(4) "Disability benefit recipient" means a member who is 226
receiving a disability benefit. 227

(O) "Age and service retirement" means retirement as provided 228
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 229

the Revised Code. 230

(P) "Pensions" means annual payments for life derived from 231
contributions made by the employer that at the time of retirement 232
are credited into the annuity and pension reserve fund from the 233
employers' accumulation fund and paid from the annuity and pension 234
reserve fund as provided in this chapter. All pensions shall be 235
paid in twelve equal monthly installments. 236

(Q) "Retirement allowance" means the pension plus that 237
portion of the benefit derived from contributions made by the 238
member. 239

(R)(1) Except as otherwise provided in division (R) of this 240
section, "earnable salary" means all salary, wages, and other 241
earnings paid to a contributor by reason of employment in a 242
position covered by the retirement system. The salary, wages, and 243
other earnings shall be determined prior to determination of the 244
amount required to be contributed to the employees' savings fund 245
under section 145.47 of the Revised Code and without regard to 246
whether any of the salary, wages, or other earnings are treated as 247
deferred income for federal income tax purposes. "Earnable salary" 248
includes the following: 249

(a) Payments made by the employer in lieu of salary, wages, 250
or other earnings for sick leave, personal leave, or vacation used 251
by the contributor; 252

(b) Payments made by the employer for the conversion of sick 253
leave, personal leave, and vacation leave accrued, but not used if 254
the payment is made during the year in which the leave is accrued, 255
except that payments made pursuant to section 124.383 or 124.386 256
of the Revised Code are not earnable salary; 257

(c) Allowances paid by the employer for full maintenance, 258
consisting of housing, laundry, and meals, as certified to the 259
retirement board by the employer or the head of the department 260

that employs the contributor; 261

(d) Fees and commissions paid under section 507.09 of the 262
Revised Code; 263

(e) Payments that are made under a disability leave program 264
sponsored by the employer and for which the employer is required 265
by section 145.296 of the Revised Code to make periodic employer 266
and employee contributions; 267

(f) Amounts included pursuant to divisions (K)(3) and (Y) of 268
this section. 269

(2) "Earnable salary" does not include any of the following: 270

(a) Fees and commissions, other than those paid under section 271
507.09 of the Revised Code, paid as sole compensation for personal 272
services and fees and commissions for special services over and 273
above services for which the contributor receives a salary; 274
275

(b) Amounts paid by the employer to provide life insurance, 276
sickness, accident, endowment, health, medical, hospital, dental, 277
or surgical coverage, or other insurance for the contributor or 278
the contributor's family, or amounts paid by the employer to the 279
contributor in lieu of providing the insurance; 280

(c) Incidental benefits, including lodging, food, laundry, 281
parking, or services furnished by the employer, or use of the 282
employer's property or equipment, or amounts paid by the employer 283
to the contributor in lieu of providing the incidental benefits; 284

(d) Reimbursement for job-related expenses authorized by the 285
employer, including moving and travel expenses and expenses 286
related to professional development; 287

(e) Payments for accrued but unused sick leave, personal 288
leave, or vacation that are made at any time other than in the 289
year in which the sick leave, personal leave, or vacation was 290

accrued; 291

(f) Payments made to or on behalf of a contributor that are 292
in excess of the annual compensation that may be taken into 293
account by the retirement system under division (a)(17) of section 294
401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 295
U.S.C.A. 401(a)(17), as amended; 296

(g) Payments made under division (B), (C), or (E) of section 297
5923.05 of the Revised Code, Section 4 of Substitute Senate Bill 298
No. 3 of the 119th general assembly, ~~or~~ Section 3 of Amended 299
Substitute Senate Bill No. ~~173~~ 164 of the 124th general assembly, 300
or Amended Substitute House Bill No. 405 of the 124th general 301
assembly; 302

(h) Anything of value received by the contributor that is 303
based on or attributable to retirement or an agreement to retire, 304
except that payments made on or before January 1, 1989, that are 305
based on or attributable to an agreement to retire shall be 306
included in earnable salary if both of the following apply: 307

(i) The payments are made in accordance with contract 308
provisions that were in effect prior to January 1, 1986; 309

(ii) The employer pays the retirement system an amount 310
specified by the retirement board equal to the additional 311
liability resulting from the payments. 312

(3) The retirement board shall determine by rule whether any 313
compensation not enumerated in division (R) of this section is 314
earnable salary, and its decision shall be final. 315

(S) "Pension reserve" means the present value, computed upon 316
the basis of the mortality and other tables adopted by the board, 317
of all payments to be made on account of any retirement allowance 318
or benefit in lieu of any retirement allowance, granted to a 319
member or beneficiary under this chapter. 320

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

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

(b) For each month for which the member's earnable salary is less than two hundred fifty dollars, allow a fraction of a month's credit. The numerator of this fraction shall be the earnable salary during the month, and the denominator shall be two hundred fifty dollars, except that if the member's annual earnable salary is less than six hundred dollars, the member's credit shall not be reduced below twenty per cent of a year for a calendar year of employment during which the member worked each month. Division (T)(1)(b) of this section shall not reduce any credit earned before January 1, 1985.

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

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

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

(W) "Employer contribution" means the amount paid by an

employer as determined under section 145.48 of the Revised Code.

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

(Y) When a member has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established, and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during a term of office, the member may elect to have the amount of the member's contributions calculated upon the basis of the increased salary for the office. At the member's request, the board shall compute the total additional amount the member would have contributed, or the amount by which each of the member's contributions would have increased, had the member received the increased salary for the office the member holds. If the member elects to have the amount by which the member's contribution would have increased withheld from the member's salary, the member shall notify the employer, and the employer shall make the withholding and transmit it to the retirement system. A member who has not elected to have that amount withheld may elect at any time to make a payment to the retirement system equal to the additional amount the member's contribution would have increased, plus interest on that contribution, compounded annually at a rate established by the board and computed from the date on which the last contribution would have been withheld from the member's salary to the date of payment. A member may make a payment for part of the period for which the increased contribution was not withheld, in which case the interest shall be computed from the date the last contribution would have been withheld for the period for which the payment is made. Upon the payment of the increased contributions

as provided in this division, the increased annual salary as
provided by law for the office for the period for which the member
paid increased contributions thereon shall be used in determining
the member's earnable salary for the purpose of computing the
member's final average salary.

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

(AA) "Deputy sheriff" means any person who is commissioned
and employed as a full-time peace officer by the sheriff of any
county, and has been so employed since on or before December 31,
1965, and whose primary duties are to preserve the peace, to
protect life and property, and to enforce the laws of this state;
any person who is or has been commissioned and employed as a peace
officer by the sheriff of any county since January 1, 1966, and
who has received a certificate attesting to the person's
satisfactory completion of the peace officer training school as
required by section 109.77 of the Revised Code and whose primary
duties are to preserve the peace, protect life and property, and
enforce the laws of this state; or any person deputized by the
sheriff of any county and employed pursuant to section 2301.12 of
the Revised Code as a criminal bailiff or court constable who has
received a certificate attesting to the person's satisfactory
completion of the peace officer training school as required by
section 109.77 of the Revised Code and whose primary duties are to
preserve the peace, protect life and property, and enforce the
laws of this state.

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

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

(1) Employed full-time as a narcotics agent by a county narcotics agency created pursuant to section 307.15 of the Revised Code and has received a certificate attesting to the satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code;

(2) Employed full-time as an undercover drug agent as defined in section 109.79 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(DD) "Department of public safety enforcement agent" means a full-time employee of the department of public safety who is designated under section 5502.14 of the Revised Code as an enforcement agent and who is in compliance with section 109.77 of the Revised Code.

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

(FF) "Park officer" means a full-time employee of the department of natural resources who is designated a park officer

under section 1541.10 of the Revised Code and is in compliance 447
with section 109.77 of the Revised Code. 448

(GG) "Forest officer" means a full-time employee of the 449
department of natural resources who is designated a forest officer 450
under section 1503.29 of the Revised Code and is in compliance 451
with section 109.77 of the Revised Code. 452

(HH) "Preserve officer" means a full-time employee of the 453
department of natural resources who is designated a preserve 454
officer under section 1517.10 of the Revised Code and is in 455
compliance with section 109.77 of the Revised Code. 456

(II) "Wildlife officer" means a full-time employee of the 457
department of natural resources who is designated a wildlife 458
officer under section 1531.13 of the Revised Code and is in 459
compliance with section 109.77 of the Revised Code. 460

(JJ) "State watercraft officer" means a full-time employee of 461
the department of natural resources who is designated a state 462
watercraft officer under section 1547.521 of the Revised Code and 463
is in compliance with section 109.77 of the Revised Code. 464

(KK) "Park district police officer" means a full-time 465
employee of a park district who is designated pursuant to section 466
511.232 or 1545.13 of the Revised Code and is in compliance with 467
section 109.77 of the Revised Code. 468

(LL) "Conservancy district officer" means a full-time 469
employee of a conservancy district who is designated pursuant to 470
section 6101.75 of the Revised Code and is in compliance with 471
section 109.77 of the Revised Code. 472

(MM) "Municipal police officer" means a member of the 473
organized police department of a municipal corporation who is 474
employed full-time, is in compliance with section 109.77 of the 475
Revised Code, and is not a member of the Ohio police and fire 476
pension fund. 477

(NN) "Ohio veterans' home police officer" means any person 478
who is employed at the Ohio veterans' home as a police officer 479
pursuant to section 5907.02 of the Revised Code and is in 480
compliance with section 109.77 of the Revised Code. 481

(OO) "Special police officer for a mental health institution" 482
means any person who is designated as such pursuant to section 483
5119.14 of the Revised Code and is in compliance with section 484
109.77 of the Revised Code. 485

(PP) "Special police officer for an institution for the 486
mentally retarded and developmentally disabled" means any person 487
who is designated as such pursuant to section 5123.13 of the 488
Revised Code and is in compliance with section 109.77 of the 489
Revised Code. 490

(QQ) "State university law enforcement officer" means any 491
person who is employed full-time as a state university law 492
enforcement officer pursuant to section 3345.04 of the Revised 493
Code and who is in compliance with section 109.77 of the Revised 494
Code. 495

(RR) "Hamilton county municipal court bailiff" means a person 496
appointed by the clerk of courts of the Hamilton county municipal 497
court under division (A)(3) of section 1901.32 of the Revised Code 498
who is employed full-time as a bailiff or deputy bailiff, who has 499
received a certificate attesting to the person's satisfactory 500
completion of the peace officer training school as required by 501
division (C) of section 109.77 of the Revised Code, and whose 502
primary duties are to preserve the peace, to protect life and 503
property, and to enforce the laws of this state. 504

(SS) "House sergeant at arms" means any person appointed by 505
the speaker of the house of representatives under division (B)(1) 506
of section 101.311 of the Revised Code who has arrest authority 507
under division (E)(1) of that section. 508

(TT) "Assistant house sergeant at arms" means any person 509
appointed by the house sergeant at arms under division (C)(1) of 510
section 101.311 of the Revised Code. 511

(UU) Notwithstanding section 2901.01 of the Revised Code, 512
"law enforcement officer" means a sheriff, deputy sheriff, 513
township constable or police officer in a township police 514
department or district, drug agent, department of public safety 515
enforcement agent, natural resources law enforcement staff 516
officer, park officer, forest officer, preserve officer, wildlife 517
officer, state watercraft officer, park district police officer, 518
conservancy district officer, Ohio veterans' home police officer, 519
special police officer for a mental health institution, special 520
police officer for an institution for the mentally retarded and 521
developmentally disabled, state university law enforcement 522
officer, Hamilton county municipal court bailiff, municipal police 523
officer, house sergeant at arms, or assistant house sergeant at 524
arms. 525

(VV) "Fiduciary" means a person who does any of the 526
following: 527

(1) Exercises any discretionary authority or control with 528
respect to the management of the system or with respect to the 529
management or disposition of its assets; 530

(2) Renders investment advice for a fee, direct or indirect, 531
with respect to money or property of the system; 532

(3) Has any discretionary authority or responsibility in the 533
administration of the system. 534

(WW) "Actuary" means an individual who satisfies all of the 535
following requirements: 536

(1) Is a member of the American academy of actuaries; 537

(2) Is an associate or fellow of the society of actuaries; 538

(3) Has a minimum of five years' experience in providing 539
actuarial services to public retirement plans. 540

Sec. 149.07. One bound copy of each of the final journals and 711
appendixes ~~and fifty copies of maps of Ohio showing congressional,~~ 712
~~senatorial, and judicial districts of the state~~ shall be sent made 713
available to each member of the general assembly. 714
715

Sec. 166.03. (A) There is hereby created the facilities 716
establishment fund within the state treasury, consisting of 717
proceeds from the issuance of obligations as specified under 718
section 166.08 of the Revised Code; the moneys received by the 719
state from the sources specified in section 166.09 of the Revised 720
Code; service charges imposed under sections 166.06 and 166.07 of 721
the Revised Code; any grants, gifts, or contributions of moneys 722
received by the director of development to be used for loans made 723
under section 166.07 of the Revised Code or for the payment of the 724
allowable costs of project facilities; and all other moneys 725
appropriated or transferred to the fund. Moneys in the loan 726
guarantee fund in excess of four per cent of the unpaid principal 727
amount of loan repayments guaranteed under section 166.06 of the 728
Revised Code, but subject to the provisions and requirements of 729
any guarantee contracts, may be transferred to the facilities 730
establishment fund by the treasurer of state upon the order of the 731
director of development. Moneys received by the state under 732
Chapter 122. of the Revised Code, to the extent allocable to the 733
utilization of moneys derived from proceeds of the sale of 734
obligations pursuant to section 166.08 of the Revised Code, shall 735
be credited to the facilities establishment fund. 736

(B) All moneys appropriated or transferred to the facilities 737
establishment fund may be released at the request of the director 738
of development for payment of allowable costs or the making of 739

loans under this chapter, for transfer to the loan guarantee fund
established in section 166.06 of the Revised Code, or for use for
the purpose of or transfer to the funds established by sections
122.35, 122.42, 122.54, 122.55, 122.56, 122.561, 122.57, 122.601,
and 122.80 of the Revised Code and, until July 1, 2003, the ~~funds~~
fund established by ~~sections 122.26 and section~~ 166.031 of the
Revised Code, and, until July 1, 2007, the fund established by
section 122.26 of the Revised Code, but only for such of those
purposes as are within the authorization of Section 13 of Article
VIII, Ohio Constitution, in all cases subject to the approval of
the controlling board.

(C) The department of development, in the administration of
the facilities establishment fund, is encouraged to utilize and
promote the utilization of, to the maximum practicable extent, the
other existing programs, business incentives, and tax incentives
that department is required or authorized to administer or
supervise.

Sec. 183.02. This section's references to years mean state
fiscal years.

All payments received by the state pursuant to the tobacco
master settlement agreement shall be deposited into the state
treasury to the credit of the tobacco master settlement agreement
fund, which is hereby created. All investment earnings of the fund
shall also be credited to the fund. Except as provided in division
(I) of this section, payments and interest credited to the fund
shall be transferred by the director of budget and management as
follows:

(A)(1) Of the first payment credited to the tobacco master
settlement agreement fund in 2000 and the net amounts credited to
the fund annually from 2000 to 2006 and in 2012, the following
amount or percentage shall be transferred to the tobacco use

prevention and cessation trust fund, created in section 183.03 of the Revised Code: 771
772

YEAR	AMOUNT OR PERCENTAGE	773
2000 (first payment credited)	\$104,855,222.85	774
2000 (net amount credited)	70.30%	775
2001	62.84	776
2002	61.41	777
2003	63.24	778
2004	66.65	779
2005	66.24	780
2006	65.97	781
2012	56.01	782

(2) Of the net amounts credited to the tobacco master settlement agreement fund in 2013, the director shall transfer to the tobacco use prevention and cessation trust fund the amount not transferred to the tobacco use prevention and cessation trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2002 due to H.B. No. 405 of the 124th general assembly. Of the net amounts credited to the tobacco master settlement agreement fund in 2014, the director shall transfer to the tobacco use prevention and cessation trust fund the amount not transferred to the tobacco use prevention and cessation trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2003 due to H.B. No. 405 of the 124th general assembly. 783
784
785
786
787
788
789
790
791
792
793
794
795

(B) Of the first payment credited to the tobacco master settlement agreement fund in 2000 and the net amounts credited to the fund annually in 2000 and 2001, the following amount or percentage shall be transferred to the law enforcement improvements trust fund, created in section 183.10 of the Revised Code: 796
797
798
799
800
801

YEAR	AMOUNT OR PERCENTAGE	802
2000 (first payment credited)	\$10,000,000	803
2000 (net amount credited)	5.41%	804
2001	2.32	805

(C)(1) Of the first payment credited to the tobacco master
settlement agreement fund in 2000 and the net amounts credited to
the fund annually from 2000 to 2011, the following percentages
shall be transferred to the southern Ohio agricultural and
community development trust fund, created in section 183.11 of the
Revised Code:

YEAR	PERCENTAGE	812
2000 (first payment credited)	5.00%	813
2000 (net amount credited)	8.73	814
2001	8.12	815
2002	9.18	816
2003	8.91	817
2004	7.84	818
2005	7.79	819
2006	7.76	820
2007	17.39	821
2008 through 2011	17.25	822

(2) Of the net amounts credited to the tobacco master
settlement agreement fund in 2013, the director shall transfer to
the southern Ohio agricultural and community development trust
fund the amount not transferred to the southern Ohio agricultural
and community development trust fund from the net amounts credited
to the tobacco master settlement agreement fund in 2002 due to
Sub. H.B. No. 405 of the 124th general assembly. Of the net
amounts credited to the tobacco master settlement agreement fund
in 2014, the director shall transfer to the southern Ohio
agricultural and community development trust fund the amount not

transferred to the southern Ohio agricultural and community 833
development trust fund from the net amounts credited to the 834
tobacco master settlement agreement fund in 2003 due to Sub. H.B.
No. 405 of the 124th general assembly.

(D)(1) The following percentages of the net amounts credited 835
to the tobacco master settlement agreement fund annually shall be 836
transferred to Ohio's public health priorities trust fund, created 837
in section 183.18 of the Revised Code: 838

YEAR	PERCENTAGE	
2000	5.41	840
2001	6.68	841
2002	6.79	842
2003	6.90	843
2004	7.82	844
2005	8.18	845
2006	8.56	846
2007	19.83	847
2008	19.66	848
2009	20.48	849
2010	21.30	850
2011	22.12	851
2012	10.47	852

(2) Of the net amounts credited to the tobacco master 853
settlement agreement fund in 2013, the director shall transfer to 854
the Ohio public health priorities trust fund the amount not 855
transferred to the Ohio public health priorities trust fund from 856
the net amounts credited to the tobacco master settlement 857
agreement fund in 2002 due to Sub. H.B. No. 405 of the 124th 858
general assembly. Of the net amounts credited to the tobacco 859
master settlement agreement fund in 2014, the director shall 860
transfer to the Ohio health priorities trust fund the amount not 861
transferred to the Ohio health priorities trust fund from the net 862

amounts credited to the tobacco master settlement agreement fund 863
in 2003 due to Sub. H.B. No. 405 of the 124th general assembly. 864

(E) The following percentages of the net amounts credited to 865
the tobacco master settlement agreement fund annually shall be 866
transferred to the biomedical research and technology transfer 867
trust fund, created in section 183.19 of the Revised Code: 868

YEAR	PERCENTAGE	
2000	2.71	870
2001	14.03	871
2002	13.29	872
2003	12.73	873
2004	13.78	874
2005	14.31	875
2006	14.66	876
2007	49.57	877
2008 to 2011	45.06	878
2012	18.77	879

(F) Of the amounts credited to the tobacco master settlement 893
agreement fund annually, the following amounts shall be 894
transferred to the education facilities trust fund, created in 895
section 183.26 of the Revised Code: 896

YEAR	AMOUNT	
2000	\$133,062,504.95	898
2001	128,938,732.73	899
2002	185,804,475.78	900
2003	180,561,673.11	901
2004	122,778,219.49	902
2005	121,389,325.80	903
2006	120,463,396.67	904
2007	246,389,369.01	905
2008 to 2011	267,531,291.85	906
2012	110,954,545.28	907

(G) Of the amounts credited to the tobacco master settlement agreement fund annually, from 2000 to 2012 five million dollars per year shall be transferred to the education facilities endowment fund, created in section 183.27 of the Revised Code. From 2013 to 2025, the following percentages of the amounts credited to the tobacco master settlement agreement fund annually shall be transferred to the endowment fund:

YEAR	PERCENTAGE	
2013	30.22	
2014	33.36	
2015 to 2025	40.90	

(H) The following percentages of the net amounts credited to the tobacco master settlement agreement fund annually shall be transferred to the education technology trust fund, created in section 183.28 of the Revised Code:

YEAR	PERCENTAGE	
2000	7.44	
2001	6.01	
2002	9.33	
2003	8.22	
2004	3.91	
2005	3.48	
2006	3.05	
2007	13.21	
2008	18.03	
2009	17.21	
2010	16.39	
2011	15.57	
2012	14.75	

(I) If in any year from 2001 to 2012 the payments and interest credited to the tobacco master settlement agreement fund during the year amount to less than the amounts required to be

transferred to the education facilities trust fund and the
education facilities endowment fund that year, the director of
budget and management shall make none of the transfers required by
divisions (A) to (H) of this section.

(J) If in any year from 2000 to 2025 the payments credited to
the tobacco master settlement agreement fund during the year
exceed the following amounts, the director of budget and
management shall transfer the excess to the income tax reduction
fund, created in section 131.44 of the Revised Code:

YEAR	AMOUNT
2000	\$443,892,767.51
2001	348,780,049.22
2002	418,783,038.09
2003	422,746,368.61
2004	352,827,184.57
2005	352,827,184.57
2006	352,827,184.57
2007	352,827,184.57
2008 to 2017	383,779,323.15
2018 to 2025	403,202,282.16

Sec. 307.6910. (A) As used in this section, "contracting
subdivision" means any political subdivision or taxing district
that enters into an agreement with a board of county commissioners
as authorized by this section.

(B) A board of county commissioners may enter into an
agreement with the legislative authority of one or more political
subdivisions or taxing districts located wholly or partially
within the territorial boundaries of the county providing for both
of the following:

(1) Authorization for the board of county commissioners to
receive funds due the political subdivision or taxing district

from the county treasury, other than funds raised by taxes levied
by the political subdivision or taxing district, including, but
not limited to, the political subdivision's or taxing district's
share of the undivided local government fund, provided those
received funds may lawfully be applied to the purpose for which
money is owed to the county;

(2) The crediting of the funds so received by the county
against money owed to it by the political subdivision or taxing
district.

The agreement shall be in writing and include the signature
of an authorized officer or representative of the county and of
the political subdivision or taxing district.

(C) Upon entering into an agreement, the board of county
commissioners shall cause two copies of the agreement, certified
by an authorized officer or representative of the county and of
the contracting subdivision, to be transmitted to the county
auditor. The county auditor shall forward one copy of the
agreement to the county treasurer and shall present the other copy
of the agreement to the county budget commission. The county
budget commission shall give effect to the agreement in
determining or revising the amounts to be credited to the funds of
the county and the contracting subdivision in the official or
amended official certificate of estimated resources under sections
5705.35 and 5705.36 of the Revised Code.

(D) The county auditor may rely on the certified agreement
entered into under division (B) of this section for the purpose of
making a certification under division (D) of section 5705.41 of
the Revised Code for a county contract or order of money incurred
on behalf of the contracting subdivision if the county auditor
finds that the amount credited to the county under division (B)(2)
of this section is available in the amount and at the time
necessary to meet the obligation.

(E) The county auditor and county treasurer, in carrying out 1003
their statutory duties regarding the crediting and distribution of 1004
money to the funds of the parties to agreements entered into under 1005
this section, shall give effect to any such agreements certified 1006
to the county auditor under this section. A certified agreement 1007
shall not affect the time at which moneys otherwise would be 1008
available by law to the parties to the agreement. 1009

1010
(F) The terms of an agreement entered into under this section 1011
may be enforced in the court of common pleas of the county that is 1012
a party to the agreement in an action for a writ of mandamus. For 1013
purposes of that action, it shall be deemed that the legislative 1014
authority of the contracting subdivision has a duty to allow 1015
payments to the county as specified in the agreement, that the 1016
board of county commissioners of the county has a duty to receive 1017
those payments in the manner specified in the agreement, and that 1018
those duties are specifically enjoined by law and result from an 1019
office, trust, or station. 1020

Sec. 317.33. (A) Except as otherwise provided in division (B) 1021
of this section, if a county recorder refuses to accept a deed or 1022
other instrument of writing presented to the recorder for 1023
recording, the legal fee for recording it being paid or tendered; 1024
or refuses to give a receipt therefor, when required; or fails to 1025
number consecutively all deeds or other instruments of writing 1026
upon receipt; or fails to index a deed or other instrument of 1027
writing, by the morning of the day next after it is filed for 1028
record; or neglects, without reasonable cause, to record a deed or 1029
other instrument of writing within twenty days after it is 1030
received for record; or demands and receives a greater fee for the 1031
recorder's services than that allowed by law; or knowingly 1032
endorses on a deed or other instrument of writing a different date 1033
from that on which it was presented for record, or a different 1034

date from that on which it was recorded; or refuses to make out 1035
and certify a copy of any record in the recorder's office, when 1036
demanded, the recorder's legal fee for the copy being paid or 1037
tendered; or purposely destroys, defaces, or injures any book, 1038
record, or seal belonging to the recorder's office, or any deed or 1039
other instrument of writing deposited in the recorder's office for 1040
record, or negligently suffers it to be destroyed, defaced, or 1041
injured; or does or omits any other act, contrary to sections 1042
317.01 to 317.33 of the Revised Code, the recorder shall be liable 1043
solely on the recorder's bond to any party harmed by the improper 1044
conduct. 1045

(B) If a county recorder, acting under division (B) of 1046
section 317.13 of the Revised Code, improperly refuses to record 1047
an instrument of writing in a manner that is not described in 1048
division (A)(6)(b) of section 2744.03 of the Revised Code, the 1049
recorder shall not be personally liable on account of the improper 1052
refusal and the surety that issued the recorder's bond shall not 1053
have a right of subrogation against the recorder on account of a 1054
claim made on the recorder's bond as a result of the improper 1055
refusal.

Sec. 742.01. As used in this chapter: 542

(A)(1) "Police department" means the police department of a 543
municipal corporation. 544

(2) "Member of a police department" means any of the 545
following: 546

(a) Any person who receives an original appointment as a 547
full-time regular police officer in a police department from a 548
duly established civil service eligible list or pursuant to 549
section 124.411 of the Revised Code, or who is described in 550
section 742.511 of the Revised Code, or who transfers from the 551
public employees retirement system to the Ohio police and fire 552

pension fund pursuant to section 742.513 of the Revised Code, or
who is appointed pursuant to section 737.15 or 737.16 of the
Revised Code as a full-time regular police officer and is paid
solely out of public funds of the employing municipal corporation;

(b) Any person who, on October 1, 1965, was contributing four
per cent of the person's annual salary to a police relief and
pension fund established under former section 741.32 of the
Revised Code;

(c) Any person who commences employment on or after September
16, 1998, as a full-time police officer with a police department
in a position in which the person is required to satisfactorily
complete a peace officer training course in compliance with
section 109.77 of the Revised Code.

(B)(1) "Fire department" means a fire department of the state
or an instrumentality of the state or of a municipal corporation,
township, joint fire district, or other political subdivision.

(2) "Member of a fire department" means all of the following:

(a) Any person who commences employment after November 8,
1990, as a full-time firefighter with a fire department, in a
position in which the person is required to satisfactorily
complete or have satisfactorily completed a firefighter training
course approved under former section 3303.07 or section 4765.55 or
conducted under section 3737.33 of the Revised Code;

(b) Any person who has elected under section 742.515 of the
Revised Code to be transferred from the public employees
retirement system to the Ohio police and fire pension fund;

(c) Any full-time firefighter who, on November 8, 1990, is a
member of the Ohio police and fire pension fund.

(C) "Employee" means any person who is a member of a police 583
department or a member of a fire department. 584

(D) "Employer" means the government entity by which an 585
employee is employed and paid. 586

(E) "Member of the fund" means any person, except an other 587
system retirant as defined in section 742.26 of the Revised Code, 588
who is contributing a percentage of the person's annual salary to 589
the Ohio police and fire pension fund or who is receiving a 590
disability benefit or pension from the fund as a result of service 591
in a police or fire department. A person, other than an other 592
system retirant, who is contributing a percentage of the person's 593
annual salary to the fund and is dismissed, resigns, or is granted 594
a leave of absence from a police or fire department shall be 595
considered a "member of the fund" for a period of twelve months 596
after the first day of the dismissal, resignation, or leave of 597
absence, provided the sum deducted from the person's salary and 598
credited to the person's account in the fund remains on deposit in 599
the fund. 600

(F) "Year," for the purpose of determining benefits, means 601
any twelve consecutive calendar months of active service as a 602
member of the fund, or, in the case of a member whose salary is 603
paid weekly or biweekly, fifty-two consecutive weeks of active 604
service as a member. 605

(G) "Average annual salary" means the highest average annual 606
salary of a member of the fund during any three years of 607
contributions determined by dividing the member's total salary as 608
an employee during the years by three. 609

(H) "Normal service pension benefit" means the pension 610
benefit payable to a member of the fund under division (C)(1) of 611
section 742.37 of the Revised Code upon attaining age forty-eight. 612

(I) "Retirement allowance" means the total pension benefit or 613

disability benefit to which a member of the fund may be entitled 614
under division (C) of section 742.37 or section 742.39 of the 615
Revised Code. 616

(J) "Fiduciary" means a person who does any of the following: 617
618

(1) Exercises any discretionary authority or control with 619
respect to the management of the system, or with respect to the 620
management or disposition of its assets; 621

(2) Renders investment advice for a fee, direct or indirect, 622
with respect to money or property of the system; 623

(3) Has any discretionary authority or responsibility in the 624
administration of the system. 625

(K) "Terminal pay" means the following payments made by an 626
employer to an employee on termination of employment: 627

(1) Payments for accrued but unused leave, including sick 628
leave, vacation, personal leave, and compensatory time; 629

(2) Payments deferred more than one year compensating the 630
employee for holidays worked or for longevity; 631

(3) Payments for overtime worked that are not included either 632
in the payroll for the period in which the overtime is worked or 633
for the next subsequent payroll period; 634

(4) Other payments that are not compensation for services 635
rendered in the last pay period in which services were rendered 636
and are designated as terminal pay by rule of the board of 637
trustees of the Ohio police and fire pension fund. The board shall 638
not designate as terminal pay payments deferred one year or less 639
compensating an employee for holidays worked or for longevity. 640
641

(L)(1) Except as otherwise provided in this division, 642
"salary" means all compensation, wages, and other earnings paid to 643

an employee by reason of employment, but without regard to whether
compensation, wages, or other earnings are treated as deferred
income for federal income tax purposes. "Salary" includes payments
for overtime that are made not later than the payroll following
the payroll period in which the overtime is worked.

(2) "Salary" does not include any of the following:

(a) Compensation for services outside the scope of an
employee's regular employment;

(b) Reimbursement of expenses;

(c) Terminal pay;

(d) Payments for accrued but unused sick leave or personal
leave, or vacation pay covering periods for which salary,
compensation, or benefits are paid;

(e) Payments made under division (B), (C), or (E) of section
5923.05 of the Revised Code, Section 4 of Substitute Senate Bill
No. 3 of the 119th general assembly, ~~or~~ Section 3 of Amended
Substitute Senate Bill No. ~~173~~ 164 of the 124th general assembly,
or Amended Substitute House Bill No. 405 of the 124th general
assembly;

(f) Payments made to or on behalf of an employee that are in
excess of the annual compensation that may be taken into account
by the fund under division (a)(17) of section 401 of the "Internal
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as
amended.

(3) The board shall determine by rule whether any
compensation, wages, or earnings not enumerated in this division
is salary, and its decision shall be final.

(M) "Actuary" means an individual who satisfies all of the
following requirements:

(1) Is a member of the American academy of actuaries;

(2) Is an associate or fellow of the society of actuaries; 674

(3) Has a minimum of five years' experience in providing 675
actuarial services to public retirement plans. 676

Sec. ~~1309.401~~ 1309.528. (A) All fees collected by the 1056
secretary of state for filings under Title XIII or XVII of the 1057
Revised Code shall be deposited into the state treasury to the 1058
credit of the corporate and uniform commercial code filing fund, 1059
which is hereby created. All moneys credited to the fund, subject 1060
to division (B) of this section, shall be used ~~only~~ for the 1061
purpose of paying for the operations of the office of the 1062
secretary of state, ~~other than the division of elections,~~ and for 1063
the purpose of paying for expenses relating to the processing of 1064
filings under Title XIII or XVII of the Revised Code. 1065

(B) ~~The secretary of state business technology fund~~ There is 1066
hereby created in the state treasury the secretary of state 1067
business technology fund. One per cent of the money credited to 1068
the corporate and uniform commercial code filing fund created in 1069
division (A) of this section shall be transferred to the credit of 1070
this fund. All moneys credited to this fund shall be used only for 1071
the upkeep, improvement, or replacement of equipment, or for the 1072
purpose of training employees in the use of equipment, used to 1073
conduct business of the secretary of state's office under Title 1074
XIII or XVII of the Revised Code. 1075

Sec. 1333.11. As used in sections 1333.11 to 1333.21 of the 5
Revised Code: 6

(A) "Cost to the retailer" means the invoice cost of 7
cigarettes to the retailer, or the replacement cost of cigarettes 8
to the retailer within thirty days prior to the date of sale, in 9
the quantity last purchased, whichever is lower, less all trade 10
discounts except customary discounts for cash, to which shall be 11

added the cost of doing business by the retailer as evidenced by
the standards and the methods of accounting regularly employed by
~~him~~ the retailer in ~~his~~ the retailer's allocation of overhead
costs and expenses, paid or incurred. "Cost to the retailer" must
include, without limitation, labor, including salaries of
executives and officers, rent, depreciation, selling costs,
maintenance of equipment, delivery costs, all types of licenses,
insurance, advertising, and taxes, exclusive of county cigarette
taxes paid or payable on the cigarettes. Where the sale to the
retailer is on a cash and carry basis, the cartage to the retail
outlet, if performed or paid for by the retailer, shall be added
to the invoice cost of the cigarettes to the retailer. In the
absence of proof of a lesser or higher cost by the retailer, the
cartage cost shall be three-fourths of one per cent of the invoice
cost of the cigarettes to the retailer, not including the amount
added thereto by the wholesaler for the face value of state and
county cigarette tax stamps affixed to each package of cigarettes.

(B) In the absence of proof of a lesser or higher cost of
doing business by the retailer making the sale, the cost of doing
business to the retailer shall be six per cent of the invoice cost
of the cigarettes to the retailer exclusive of the face value of
county cigarette taxes paid on the cigarettes or of the
replacement cost of the cigarettes to the retailer within thirty
days prior to the date of sale in the quantity last purchased
exclusive of the face value of county cigarette taxes paid on the
cigarettes, whichever is lower, less all trade discounts except
customary discounts for cash.

(C) "Cost to the wholesaler" means the invoice cost of the
cigarettes to the wholesaler, or the replacement cost of the
cigarettes to the wholesaler within thirty days prior to the date
of sale, in the quantity last purchased, whichever is lower, less
all trade discounts except customary discounts for cash, to which

As Reported by the Committee of Conference

shall be added a wholesaler's markup to cover in part the cost of doing business, which wholesaler's markup, in the absence of proof of a lesser or higher cost of doing business by the wholesaler as evidenced by the standards and methods of accounting regularly employed by ~~him the wholesaler~~ in ~~his the wholesaler's~~ allocation of overhead costs and expenses, paid or incurred, including without limitation, labor, salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery, delivery costs, all types of licenses, taxes, insurance, and advertising, shall be two and five-tenths per cent of said invoice cost of the cigarettes to the wholesaler, to which shall be added the full face value of state and county cigarette tax stamps affixed by the wholesaler to each package of cigarettes, or of the replacement cost of the cigarettes to the wholesaler within thirty days prior to the date of sale in the quantity last purchased, whichever is lower, less all trade discounts except customary discounts for cash. Where the sale by the wholesaler to the retailer is on a cash and carry basis, the wholesaler may, in the absence of proof of a lesser or higher cost, allow to the retailer an amount not to exceed three-fourths of one per cent of the "cost to the wholesaler" excluding the amount added thereto for the face value of state and county cigarette tax stamps affixed to each package of cigarettes.

(D) Any person licensed to sell cigarettes as both a wholesaler and a retailer, who does sell cigarettes at retail, shall, in determining "cost to the retailer", first compute "cost to the wholesaler" as provided in division (C) of this section; said "cost to the wholesaler" shall then be used in lieu of the lower of either invoice cost or replacement cost less all trade discounts except customary discounts for cash in computing "cost to the retailer" as provided in divisions (A) and (B) of this section.

(E) In all advertisements, offers for sale, or sales 76
involving two or more items at a combined price and in all 77
advertisements, offers for sale, or sales involving the giving of 78
any concession of any kind, whether it be coupons or otherwise, 79
the retailer's or wholesaler's selling price shall not be below 80
the "cost to the retailer" or the "cost to wholesaler", 81
respectively, of all articles, products, commodities, and 82
concessions included in such transactions. 83

(F)(1) "Sell at retail," "sales at retail," and "retail 84
sales" include any transfer of title to tangible personal property 85
for a valuable consideration made, in the ordinary course of trade 86
or usual prosecution of the seller's business, to the purchaser 87
for consumption or use. 88

(2) "Sell at wholesale," "sales at wholesale," and "wholesale 89
sales" include any such transfer of title to tangible personal 90
property for the purpose of resale. 91

(G) "Retailer" includes any person who is permitted to sell 92
cigarettes at retail within this state under section 5743.15 of 93
the Revised Code. 94

(H) "Wholesaler" includes any person who is permitted to sell 95
cigarettes at wholesale within this state under said section. 96

(I) "Person" includes individuals, corporations, 97
partnerships, associations, joint-stock companies, business 98
trusts, unincorporated organizations, receivers, or trustees. 99

(J) "County cigarette taxes" means the taxes levied under 100
section 5743.024 or 5743.026 of the Revised Code. 101

Sec. 3307.01. As used in this chapter: 678

(A) "Employer" means the board of education, school district, 679
governing authority of any community school established under 680
Chapter 3314. of the Revised Code, college, university, 681

institution, or other agency within the state by which a teacher
is employed and paid.

(B) "Teacher" means all of the following:

(1) Any person paid from public funds and employed in the
public schools of the state under any type of contract described
in section 3319.08 of the Revised Code in a position for which the
person is required to have a license issued pursuant to sections
3319.22 to 3319.31 of the Revised Code;

(2) Any person employed as a teacher by a community school
pursuant to Chapter 3314. of the Revised Code;

(3) Any person holding an internship certificate issued under
section 3319.28 of the Revised Code and employed in a public
school in this state;

(4) Any person having a license issued pursuant to sections
3319.22 to 3319.31 of the Revised Code and employed in a public
school in this state in an educational position, as determined by
the state board of education, under programs provided for by
federal acts or regulations and financed in whole or in part from
federal funds, but for which no licensure requirements for the
position can be made under the provisions of such federal acts or
regulations;

(5) Any other teacher or faculty member employed in any
school, college, university, institution, or other agency wholly
controlled and managed, and supported in whole or in part, by the
state or any political subdivision thereof, including Central
state university, Cleveland state university, the university of
Toledo, and the medical college of Ohio at Toledo;

(6) The educational employees of the department of education,
as determined by the state superintendent of public instruction.

In all cases of doubt, the state teachers retirement board shall determine whether any person is a teacher, and its decision shall be final.

"Teacher" does not include any academic or administrative employee of a public institution of higher education, as defined in section 3305.01 of the Revised Code, who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code.

(C) "Member" means any person included in the membership of the state teachers retirement system, which shall consist of all teachers and contributors as defined in divisions (B) and (D) of this section and all disability benefit recipients, as defined in section 3307.50 of the Revised Code. However, for purposes of this chapter, the following persons shall not be considered members:

(1) A student, intern, or resident who is not a member while employed part-time by a school, college, or university at which the student, intern, or resident is regularly attending classes;

(2) A person denied membership pursuant to section 3307.24 of the Revised Code;

(3) An other system retirant, as defined in section 3307.35 of the Revised Code, or a superannuate;

(4) An individual employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501.

(D) "Contributor" means any person who has an account in the teachers' savings fund or defined contribution fund.

(E) "Beneficiary" means any person eligible to receive, or in receipt of, a retirement allowance or other benefit provided by this chapter.

(F) "Year" means the year beginning the first day of July and ending with the thirtieth day of June next following, except that for the purpose of determining final average salary under the plan described in sections 3307.50 to 3307.79 of the Revised Code, "year" may mean the contract year.

(G) "Local district pension system" means any school teachers pension fund created in any school district of the state in accordance with the laws of the state prior to September 1, 1920.

(H) "Employer contribution" means the amount paid by an employer, as determined by the employer rate, including the normal and deficiency rates, contributions, and funds wherever used in this chapter.

(I) "Five years of service credit" means employment covered under this chapter and employment covered under a former retirement plan operated, recognized, or endorsed by a college, institute, university, or political subdivision of this state prior to coverage under this chapter.

(J) "Actuary" means the actuarial consultant to the state teachers retirement board, who shall be either of the following:

(1) A member of the American academy of actuaries;

(2) A firm, partnership, or corporation of which at least one person is a member of the American academy of actuaries.

(K) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the 772
administration of the system. 773

(L)(1) Except as provided in this division, "compensation" 774
means all salary, wages, and other earnings paid to a teacher by 775
reason of the teacher's employment, including compensation paid 776
pursuant to a supplemental contract. The salary, wages, and other 777
earnings shall be determined prior to determination of the amount 778
required to be contributed to the teachers' savings fund or 779
defined contribution fund under section 3307.26 of the Revised 780
Code and without regard to whether any of the salary, wages, or 781
other earnings are treated as deferred income for federal income 782
tax purposes. 783

(2) Compensation does not include any of the following: 784

(a) Payments for accrued but unused sick leave or personal 785
leave, including payments made under a plan established pursuant 786
to section 124.39 of the Revised Code or any other plan 787
established by the employer; 788

(b) Payments made for accrued but unused vacation leave, 789
including payments made pursuant to section 124.13 of the Revised 790
Code or a plan established by the employer; 791

(c) Payments made for vacation pay covering concurrent 792
periods for which other salary, compensation, or benefits under 793
this chapter are paid; 794

(d) Amounts paid by the employer to provide life insurance, 795
sickness, accident, endowment, health, medical, hospital, dental, 796
or surgical coverage, or other insurance for the teacher or the 797
teacher's family, or amounts paid by the employer to the teacher 798
in lieu of providing the insurance; 799

(e) Incidental benefits, including lodging, food, laundry, 800
parking, or services furnished by the employer, use of the 801
employer's property or equipment, and reimbursement for 802

job-related expenses authorized by the employer, including moving 803
and travel expenses and expenses related to professional 804
development; 805

(f) Payments made by the employer in exchange for a member's 806
waiver of a right to receive any payment, amount, or benefit 807
described in division (L)(2) of this section; 808

(g) Payments by the employer for services not actually 809
rendered; 810

(h) Any amount paid by the employer as a retroactive increase 811
in salary, wages, or other earnings, unless the increase is one of 812
the following: 813

(i) A retroactive increase paid to a member employed by a 814
school district board of education in a position that requires a 815
license designated for teaching and not designated for being an 816
administrator issued under section 3319.22 of the Revised Code 817
that is paid in accordance with uniform criteria applicable to all 818
members employed by the board in positions requiring the licenses; 819

(ii) A retroactive increase paid to a member employed by a 820
school district board of education in a position that requires a 821
license designated for being an administrator issued under section 822
3319.22 of the Revised Code that is paid in accordance with 823
uniform criteria applicable to all members employed by the board 824
in positions requiring the licenses; 825

(iii) A retroactive increase paid to a member employed by a 826
school district board of education as a superintendent that is 827
also paid as described in division (L)(2)(h)(i) of this section; 828

(iv) A retroactive increase paid to a member employed by an 829
employer other than a school district board of education in 830
accordance with uniform criteria applicable to all members 831
employed by the employer. 832

(i) Payments made to or on behalf of a teacher that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended. For a teacher who first establishes membership before July 1, 1996, the annual compensation that may be taken into account by the retirement system shall be determined under division (d)(3) of section 13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. L. No. 103-66, 107 Stat. 472.

(j) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, ~~or~~ Section 3 of Amended Substitute Senate Bill No. 173 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly;

(k) Anything of value received by the teacher that is based on or attributable to retirement or an agreement to retire.

(3) The retirement board shall determine by rule both of the following:

(a) Whether particular forms of earnings are included in any of the categories enumerated in this division;

(b) Whether any form of earnings not enumerated in this division is to be included in compensation.

Decisions of the board made under this division shall be final.

(M) "Superannuate" means both of the following:

(1) A former teacher receiving from the system a retirement allowance under section 3307.58 or 3307.59 of the Revised Code;

(2) A former teacher receiving any benefit from the system under a plan established under section 3307.81 of the Revised

Code. 863

For purposes of section 3307.35 of the Revised Code, 864
"superannuate" also means a former teacher receiving from the 865
system a combined service retirement benefit paid in accordance 866
with section 3307.57 of the Revised Code, regardless of which 867
retirement system is paying the benefit. 868

Sec. 3309.01. As used in this chapter: 869

(A) "Employer" or "public employer" means boards of 870
education, school districts, joint vocational districts, governing 871
authorities of community schools established under Chapter 3314. 872
of the Revised Code, educational institutions, technical colleges, 873
state, municipal, and community colleges, community college 874
branches, universities, university branches, other educational 875
institutions, or other agencies within the state by which an 876
employee is employed and paid, including any organization using 877
federal funds, provided the federal funds are disbursed by an 878
employer as determined by the above. In all cases of doubt, the 879
school employees retirement board shall determine whether any 880
employer is an employer as defined in this chapter, and its 881
decision shall be final. 882

(B) "Employee" means all of the following: 883

(1) Any person employed by a public employer in a position 884
for which the person is not required to have a certificate or 885
license issued pursuant to sections 3319.22 to 3319.31 of the 886
Revised Code; 887

(2) Any person who performs a service common to the normal 888
daily operation of an educational unit even though the person is 889
employed and paid by one who has contracted with an employer to 890
perform the service, and the contracting board or educational unit 891
shall be the employer for the purposes of administering the 892

provisions of this chapter; 893

(3) Any person, not a faculty member, employed in any school 894
or college or other institution wholly controlled and managed, and 895
wholly or partly supported by the state or any political 896
subdivision thereof, the board of trustees, or other managing body 897
of which shall accept the requirements and obligations of this 898
chapter. 899

In all cases of doubt, the school employees retirement board 900
shall determine whether any person is an employee, as defined in 901
this division, and its decision is final. 902

(C) "Prior service" means all service rendered prior to 903
September 1, 1937: 904

(1) As an employee as defined in division (B) of this 905
section; 906

(2) As an employee in a capacity covered by the public 907
employees retirement system or the state teachers retirement 908
system; 909

(3) As an employee of an institution in another state, 910
service credit for which was procured by a member under the 911
provisions of section 3309.31 of the Revised Code. 912

Prior service, for service as an employee in a capacity 913
covered by the public employees retirement system or the state 914
teachers retirement system, shall be granted a member under 915
qualifications identical to the laws and rules applicable to 916
service credit in those systems. 917

Prior service shall not be granted any member for service 918
rendered in a capacity covered by the public employees retirement 919
system, the state teachers retirement system, and this system in 920
the event the service credit has, in the respective systems, been 921
received, waived by exemption, or forfeited by withdrawal of 922

contributions, except as provided in this chapter. 923

If a member who has been granted prior service should, 924
subsequent to September 16, 1957, and before retirement, establish 925
three years of contributing service in the public employees 926
retirement system, or one year in the state teachers retirement 927
system, then the prior service granted shall become, at 928
retirement, the liability of the other system, if the prior 929
service or employment was in a capacity that is covered by that 930
system. 931

The provisions of this division shall not cancel any prior 932
service granted a member by the school employees retirement board 933
prior to August 1, 1959. 934

(D) "Total service," "total service credit," or "Ohio service 935
credit" means all contributing service of a member of the school 936
employees retirement system, and all prior service, computed as 937
provided in this chapter, and all service established pursuant to 938
sections 3309.31, 3309.311, and 3309.33 of the Revised Code. In 939
addition, "total service" includes any period, not in excess of 940
three years, during which a member was out of service and 941
receiving benefits from the state insurance fund, provided the 942
injury or incapacitation was the direct result of school 943
employment. 944

(E) "Member" means any employee, except an SERS retirant or 945
other system retirant as defined in section 3309.341 of the 946
Revised Code, who has established membership in the school 947
employees retirement system. "Member" includes a disability 948
benefit recipient. 949

(F) "Contributor" means any person who has an account in the 950
employees' savings fund. When used in the sections listed in 951
division (B) of section 3309.82 of the Revised Code, "contributor" 952
includes any person participating in a plan established under 953

section 3309.81 of the Revised Code.

(G) "Retirant" means any former member who retired and is receiving a service retirement allowance or commuted service retirement allowance as provided in this chapter.

(H) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a contributor or retirant, qualifies for or is receiving some right or benefit under this chapter.

(I) "Interest," as specified in division (E) of section 3309.60 of the Revised Code, means interest at the rates for the respective funds and accounts as the school employees retirement board may determine from time to time, except as follows:

(1) The rate of interest credited on employee contributions at retirement shall be four per cent per annum, compounded annually, to and including June 30, 1955; three per cent per annum, compounded annually, from July 1, 1955, to and including June 30, 1963; three and one-quarter per cent per annum, compounded annually, from July 1, 1963, through June 30, 1966; and thereafter, four per cent per annum compounded annually until a change in the amount is recommended by the system's actuary and approved by the retirement board. Subsequent to June 30, 1959, the retirement board shall discontinue the annual crediting of current interest on a contributor's accumulated contributions. Noncrediting of current interest shall not affect the rate of interest at retirement guaranteed under this division.

(2) In determining the reserve value for purposes of computing the amount of the contributor's annuity, the rate of interest used in the annuity values shall be four per cent per annum through September 30, 1956; three per cent per annum compounded annually from October 1, 1956, through June 30, 1963; three and one-quarter per cent per annum compounded annually from

July 1, 1963, through June 30, 1966; and, thereafter, four per
cent per annum compounded annually until a change in the amount is
recommended by the system's actuary and approved by the retirement
board. In the purchase of out-of-state service credit as provided
in section 3309.31 of the Revised Code, and in the purchase of an
additional annuity, as provided in section 3309.47 of the Revised
Code, interest shall be computed and credited to reserves therefor
at the rate the school employees retirement board shall fix as
regular interest thereon.

(J) "Accumulated contributions" means the sum of all amounts
credited to a contributor's account in the employees' savings fund
together with any regular interest credited thereon at the rates
approved by the retirement board prior to retirement.

(K) "Final average salary" means the sum of the annual
compensation for the three highest years of compensation for which
contributions were made by the member, divided by three. If the
member has a partial year of contributing service in the year in
which the member terminates employment and the partial year is at
a rate of compensation that is higher than the rate of
compensation for any one of the highest three years of annual
earnings, the board shall substitute the compensation earned for
the partial year for the compensation earned for a similar
fractional portion in the lowest of the three high years of annual
compensation before dividing by three. If a member has less than
three years of contributing membership, the final average salary
shall be the total compensation divided by the total number of
years, including any fraction of a year, of contributing service.

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

(M)(1) "Pension" means annual payments for life derived from

appropriations made by an employer and paid from the employers' 1017
trust fund or the annuity and pension reserve fund. All pensions 1018
shall be paid in twelve equal monthly installments. 1019

(2) "Disability retirement" means retirement as provided in 1020
section 3309.40 of the Revised Code. 1021

(N) "Retirement allowance" means the pension plus the 1022
annuity. 1023

(O)(1) "Benefit" means a payment, other than a retirement 1024
allowance or the annuity paid under section 3309.341 of the 1025
Revised Code, payable from the accumulated contributions of the 1026
member or the employer, or both, under this chapter and includes a 1027
disability allowance or disability benefit. 1028

(2) "Disability allowance" means an allowance paid on account 1029
of disability under section 3309.401 of the Revised Code. 1030

(3) "Disability benefit" means a benefit paid as disability 1031
retirement under section 3309.40 of the Revised Code, as a 1032
disability allowance under section 3309.401 of the Revised Code, 1033
or as a disability benefit under section 3309.35 of the Revised 1034
Code. 1035

(P) "Annuity reserve" means the present value, computed upon 1036
the basis of mortality tables adopted by the school employees 1037
retirement board, of all payments to be made on account of any 1038
annuity, or benefit in lieu of any annuity, granted to a retirant. 1039

(Q) "Pension reserve" means the present value, computed upon 1040
the basis of mortality tables adopted by the school employees 1041
retirement board, of all payments to be made on account of any 1042
pension, or benefit in lieu of any pension, granted to a retirant 1043
or a beneficiary. 1044

(R) "Year" means the year beginning the first day of July and 1045
ending with the thirtieth day of June next following. 1046

(S) "Local district pension system" means any school 1047
employees' pension fund created in any school district of the 1048
state prior to September 1, 1937. 1049

(T) "Employer contribution" means the amount paid by an 1050
employer as determined under section 3309.49 of the Revised Code. 1051

(U) "Fiduciary" means a person who does any of the following: 1052
1053

(1) Exercises any discretionary authority or control with 1054
respect to the management of the system, or with respect to the 1055
management or disposition of its assets; 1056

(2) Renders investment advice for a fee, direct or indirect, 1057
with respect to money or property of the system; 1058

(3) Has any discretionary authority or responsibility in the 1059
administration of the system. 1060

(V)(1) Except as otherwise provided in this division, 1061
"compensation" means all salary, wages, and other earnings paid to 1062
a contributor by reason of employment. The salary, wages, and 1063
other earnings shall be determined prior to determination of the 1064
amount required to be contributed to the employees' savings fund 1065
under section 3309.47 of the Revised Code and without regard to 1066
whether any of the salary, wages, or other earnings are treated as 1067
deferred income for federal income tax purposes. 1068

(2) Compensation does not include any of the following: 1069

(a) Payments for accrued but unused sick leave or personal 1070
leave, including payments made under a plan established pursuant 1071
to section 124.39 of the Revised Code or any other plan 1072
established by the employer; 1073

(b) Payments made for accrued but unused vacation leave, 1074
including payments made pursuant to section 124.13 of the Revised 1075
Code or a plan established by the employer; 1076

(c) Payments made for vacation pay covering concurrent 1077
periods for which other salary or compensation is also paid or 1078
during which benefits are paid under this chapter; 1079

(d) Amounts paid by the employer to provide life insurance, 1080
sickness, accident, endowment, health, medical, hospital, dental, 1081
or surgical coverage, or other insurance for the contributor or 1082
the contributor's family, or amounts paid by the employer to the 1083
contributor in lieu of providing the insurance; 1084

(e) Incidental benefits, including lodging, food, laundry, 1085
parking, or services furnished by the employer, use of the 1086
employer's property or equipment, and reimbursement for 1087
job-related expenses authorized by the employer, including moving 1088
and travel expenses and expenses related to professional 1089
development; 1090

(f) Payments made to or on behalf of a contributor that are 1091
in excess of the annual compensation that may be taken into 1092
account by the retirement system under division (a)(17) of section 1093
401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 1094
U.S.C.A. 401(a)(17), as amended. For a contributor who first 1095
establishes membership before July 1, 1996, the annual 1096
compensation that may be taken into account by the retirement 1097
system shall be determined under division (d)(3) of section 13212 1098
of the "Omnibus Budget Reconciliation Act of 1993," Pub. L. 1099
103-66, 107 Stat. 472; 1100

(g) Payments made under division (B), (C), or (E) of section 1101
5923.05 of the Revised Code, Section 4 of Substitute Senate Bill 1102
No. 3 of the 119th general assembly, ~~or~~ Section 3 of Amended 1103
Substitute Senate Bill No. ~~173~~ 164 of the 124th general assembly, 1104
or Amended Substitute House Bill No. 405 of the 124th general 1105
assembly; 1106

(h) Anything of value received by the contributor that is 1107

based on or attributable to retirement or an agreement to retire, 1108
except that payments made on or before January 1, 1989, that are 1109
based on or attributable to an agreement to retire shall be 1110
included in compensation if both of the following apply: 1111

(i) The payments are made in accordance with contract 1112
provisions that were in effect prior to January 1, 1986. 1113

(ii) The employer pays the retirement system an amount 1114
specified by the retirement board equal to the additional 1115
liability from the payments. 1116

(3) The retirement board shall determine by rule whether any 1117
form of earnings not enumerated in this division is to be included 1118
in compensation, and its decision shall be final. 1119

(W) "Disability benefit recipient" means a member who is 1120
receiving a disability benefit. 1121

(X) "Actuary" means an individual who satisfies all of the 1122
following requirements: 1123

(1) Is a member of the American academy of actuaries; 1124

(2) Is an associate or fellow of the society of actuaries; 1125

(3) Has a minimum of five years' experience in providing 1126
actuarial services to public retirement plans. 1127

Sec. 3313.37. (A)(1) The board of education of any city, 1108
local, or exempted village school district may build, enlarge, 1109
repair, and furnish the necessary schoolhouses, purchase or lease 1110
sites therefor, or rights-of-way thereto, or purchase or lease 1111
real estate to be used as playgrounds for children or rent 1112
suitable schoolrooms, either within or without the district, and 1113
provide the necessary apparatus and make all other necessary 1114
provisions for the schools under its control. 1115

(2) A governing board of an educational service center may 1116

acquire, lease or lease-purchase, or enter into a contract to 1117
purchase, lease or lease-purchase, or sell real and personal 1118
property and may construct, enlarge, repair, renovate, furnish, or 1119
equip facilities, buildings, or structures for the educational 1120
service center's purposes. The board may enter into loan 1121
agreements, including mortgages, for the acquisition of such 1122
property. If a governing board exercises any of these powers to 1123
acquire office or classroom space, the board of county 1124
commissioners has no obligation to provide and equip offices and 1125
to provide heat, light, water, and janitorial services for the use 1126
of the service center pursuant to section 3319.19 of the Revised 1127
Code, unless there is a contract as provided by division (D) of 1128
that section. 1129

(3) A board of county commissioners may issue securities of 1130
the county pursuant to Chapter 133. of the Revised Code for the 1131
acquisition of real and personal property or for the construction, 1132
enlargement, repair, or renovation of facilities, buildings, or 1133
structures by an educational service center, but only if the 1134
county has a contract under division (D) of section 3319.19 of the 1135
Revised Code with the educational service center whereby the 1136
educational service center agrees to pay the county an amount 1137
equal to the debt charges on the issued securities on or before 1138
the date those charges fall due. For the purposes of this section, 1139
"debt charges" and "securities" have the same meanings as in 1140
section 133.01 of the Revised Code. 1141

(B)(1) Boards of education of city, local, and exempted 1142
village school districts may acquire land by gift or devise, by 1143
purchase, or by appropriation. Lands purchased may be purchased 1144
for cash, by installment payments, with or without a mortgage, by 1145
entering into lease-purchase agreements, or by lease with an 1146
option to purchase, provided that if the purchase price is to be 1147
paid over a period of time, such payments shall not extend for a 1148

period of more than five years. A special tax levy may be 1149
authorized by the voters of the school district in accordance with 1150
section 5705.21 of the Revised Code to provide a special fund to 1151
meet the future time payments. 1152

(2) For the purposes of section 5705.21 of the Revised Code, 1153
acquisition of land under the provisions of this division shall be 1154
considered a necessary requirement of the school district. 1155

(3) Boards of education of city, local, and exempted village 1156
school districts may acquire federal land at a discount by a 1157
lease-purchase agreement for use as a site for the construction of 1158
educational facilities or for other related purposes. External 1159
administrative and other costs pertaining to the acquisition of 1160
federal land at a discount may be paid from funds available to the 1161
school district for operating purposes. Such boards of education 1162
may also acquire federal land by lease-purchase agreements, by 1163
negotiation, or otherwise. 1164

(4) As used in this division: 1165

(a) "Office equipment" includes but is not limited to 1166
typewriters, copying and duplicating equipment, and computer and 1167
data processing equipment. 1168

(b) "Software for instructional purposes" includes computer 1169
programs usable for computer assisted instruction, computer 1170
managed instruction, drill and practice, and problem simulations. 1171

A board of education or governing board of an educational 1172
service center may acquire the necessary office equipment, and 1173
computer hardware and software for instructional purposes, for the 1174
schools under its control by purchase, by lease, by installment 1175
payments, by entering into lease-purchase agreements, or by lease 1176
with an option to purchase. In the case of a city, exempted 1177
village, or local school district, if the purchase price is to be 1178
paid over a period of time, the contract setting forth the terms 1179

of such purchase shall be considered a continuing contract
pursuant to section 5705.41 of the Revised Code. Payments shall
not extend for a period of more than five years. Costs relating to
the acquisition of necessary apparatus may be paid from funds
available to the school district or educational service center for
operating purposes.

(5) A board of education or governing board of an educational
service center may acquire the necessary equipment for the
maintenance or physical upkeep of facilities and land under its
control by entering into lease-purchase agreements. If payments
under the lease-purchase agreement are to be made over a period of
time, the agreement shall be considered a continuing contract
pursuant to section 5705.41 of the Revised Code, and such payments
shall not extend for a period of more than five years.

Sec. 3313.375. The board of education of a city, local,
exempted village, or joint vocational school district or the
governing board of an educational service center may enter into a
lease-purchase agreement providing for construction; enlarging or
other improvement, furnishing, and equipping; lease; and eventual
acquisition of a building or improvements to a building for any
school district or educational service center purpose. The
agreement shall provide for a lease for a series of one-year
renewable lease terms totaling not more than thirty years. The
agreement shall provide that at the end of the series of lease
terms provided for in the agreement the title to the leased
property shall be vested in the school district or educational
service center, if all obligations of the school district or
educational service center provided for in the agreement have been
satisfied. The agreement may, in addition to the rental payments,
require the school district or educational service center to pay
the lessor a lump-sum amount as a condition of obtaining title to
the leased property. In conjunction with the agreement, ~~the~~ a

school district board of education or an educational service 1212
center governing board may grant leases, easements, or licenses 1213
for underlying land or facilities under the board's control for 1214
like periods terms not exceeding five years beyond the final 1215
renewal term of the lease-purchase agreement entered into pursuant 1216
to this section. Payments under the agreement may be deemed to be, 1217
and paid as, current operating expenses. 1218

The obligations under a lease-purchase agreement entered into 1219
pursuant to this section shall not be considered to be net 1220
indebtedness of a school district under section 133.06 of the 1221
Revised Code. 1222

Sec. 3318.31. (A) The Ohio school facilities commission may 1223
perform any act and ensure the performance of any function 1224
necessary or appropriate to carry out the purposes of, and 1225
exercise the powers granted under, Chapter 3318. of the Revised 1226
Code, including any of the following: 1227

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 1228
the Revised Code, rules for the administration of programs 1229
authorized under Chapter 3318. of the Revised Code. 1230

(2) Contract with, retain the services of, or designate, and 1231
fix the compensation of, such agents, accountants, consultants, 1232
advisers, and other independent contractors as may be necessary or 1233
desirable to carry out the programs authorized under Chapter 3318. 1234
of the Revised Code. 1235

(3) Receive and accept any gifts, grants, donations, and 1236
pledges, and receipts therefrom, to be used for the programs 1237
authorized under Chapter 3318. of the Revised Code. 1238

(4) Make and enter into all contracts, commitments, and 1239
agreements, and execute all instruments, necessary or incidental 1240
to the performance of its duties and the execution of its rights 1241
and powers under Chapter 3318. of the Revised Code. 1242

(B) The commission shall appoint and fix the compensation of
an executive director who shall serve at the pleasure of the
commission. The executive director shall supervise the operations
of the commission. The executive director also shall employ and
fix the compensation of such employees as will facilitate the
activities and purposes of the commission, who shall serve at the
pleasure of the executive director. The employees of the
commission shall be exempt from Chapter 4117. of the Revised Code
and shall not be public employees as defined in section 4117.01 of
the Revised Code.

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

Sec. 3353.07. ~~On and after the effective date of this~~
~~amendment, the Ohio educational telecommunications network~~
~~commission shall operate the~~ (A) As used in this section,
"broadcasting station" has the same meaning as in section 3353.01
of the Revised Code.

(B) Ohio government telecommunications shall be funded
through the Ohio educational telecommunications network commission
and shall be managed by a broadcasting station under a contract.
The contract shall not take effect until the program committee of
Ohio government telecommunications approves the contract. The
broadcasting station shall manage the staff of Ohio government
telecommunications.

(C)(1) There is hereby created the program committee of Ohio
government telecommunications system that was operated by the
capitol square review and advisory board prior to the effective
date of this amendment shall consist of the president of the
senate, speaker of the house of representatives, minority leader

of the senate, and minority leader of the house of 1274
representatives, or their designees. By a vote of a majority of 1275
its members, the program committee may add additional members to 1276
the committee. 1277

(2) The program committee shall adopt rules that govern the 1278
operation of Ohio government telecommunications and the coverage 1279
and distribution of official governmental activities by Ohio 1280
government telecommunications. 1281

Sec. 3353.11. There is hereby created in the state treasury 1282
the governmental television/telecommunications operating fund. The 1283
fund shall consist of money received from contract productions of 1284
the Ohio government telecommunications studio and shall be used 1285
for operations or equipment breakdowns related to the studio. Only 1286
Ohio government telecommunications may authorize the spending of 1287
money in the fund. All investment earnings ~~on~~ of the fund shall be 1288
credited to the fund. 1289

Sec. 3770.02. (A) Subject to the advice and consent of the 1290
senate, the governor shall appoint a director of the state lottery 1291
commission who shall serve at the pleasure of the governor. The 1292
director shall devote full time to the duties of the office and 1293
shall hold no other office or employment. The director shall meet 1294
all requirements for appointment as a member of the commission and 1295
shall by experience and training possess ~~such~~ management skills ~~as~~ 1296
that would equip the director to administer an enterprise of the 1297
nature of a state lottery. The director shall receive an annual 1298
salary in accordance with pay range 48 of section 124.152 of the 1299
Revised Code. 1300

(B)(1) The director shall attend all meetings of the 1301
commission and shall act as its secretary. The director shall keep 1302
a record of all commission proceedings and shall keep ~~such~~ the 1303
commission's records, files, and documents at the commission's 1304

principal office. All records of the commission's meetings shall 1305
be available for inspection by any member of the public, upon a 1306
showing of good cause and prior notification to the director. 1307

(2) The director shall be the commission's executive officer 1308
and shall be responsible for keeping all commission records and 1309
supervising and administering the state lottery in accordance with 1310
this chapter, and carrying out all commission rules adopted under 1311
section 3770.03 of the Revised Code. 1312

(C)(1) The director shall appoint an assistant director and 1313
deputy directors of marketing, operations, sales, finance, public 1314
relations, security, and administration, and as many regional 1315
managers as are required. The director may also appoint ~~such~~ 1316
necessary professional, technical, and clerical assistants ~~as are~~ 1317
necessary. All such officers and employees shall be appointed and 1318
compensated pursuant to Chapter 124. of the Revised Code. Regional 1319
and assistant regional managers, sales representatives, and any 1320
lottery executive account representatives shall remain in the 1321
unclassified service. 1322

(2) The director, in consultation with the director of 1323
administrative services, may establish standards of proficiency 1324
and productivity for commission field representatives. 1325

(D) The director shall request the bureau of criminal 1326
identification and investigation, the department of public safety, 1327
or any other state, local, or federal agency, to supply the 1328
director with the criminal records of any job applicant and may 1329
periodically request ~~such~~ the criminal records of commission 1330
employees. At or prior to the time of making such a request, the 1331
director shall require a job applicant or commission employee to 1332
obtain fingerprint cards prescribed by the superintendent of the 1333
bureau of criminal identification and investigation at a qualified 1334
law enforcement agency, and the director shall cause these 1335
fingerprint cards to be forwarded to the bureau of criminal 1336

identification and investigation and the federal bureau of 1337
investigation. The commission shall assume the cost of obtaining 1338
the fingerprint cards and shall pay to each agency supplying ~~such~~ 1339
criminal records for each investigation under this division a 1340
reasonable fee, as determined by the agency. 1341

(E) The director shall license lottery sales agents pursuant 1342
to section 3770.05 of the Revised Code, ~~and, when it is considered~~ 1343
~~necessary,~~ may revoke or suspend the license of any lottery sales 1344
agent ~~when such action is considered necessary.~~ 1345

(F) The director shall confer at least once each month with 1346
the commission at which time the director shall advise it ~~of~~ 1347
regarding the operation and administration of the lottery. The 1348
director shall make available at the request of the commission all 1349
documents, files, and other records pertaining to the operation 1350
and administration of the lottery. The director shall prepare and 1351
make available to the commission each month a complete and 1352
accurate accounting of lottery revenues, prize money disbursements 1353
and the cost of goods and services awarded as prizes, operating 1354
expenses, and all other relevant financial information, including 1355
an accounting of all transfers made from any lottery funds in the 1356
custody of the treasurer of state to benefit education. 1357

(G) The director may enter into contracts for the operation 1358
or promotion of the lottery pursuant to Chapter 125. of the 1359
Revised Code. The director may enter into agreements to assist 1360
organizations that deal with problem gambling. 1361

(H)(1) Pursuant to rules adopted by the commission under 1362
section 3770.03 of the Revised Code, the director shall require 1363
any lottery sales agents to either mail directly to the ~~state~~ 1364
~~lottery~~ commission or ~~to~~ deposit to the credit of the state 1365
lottery fund, in banking institutions designated by the treasurer 1366
of state, net proceeds due the ~~lottery~~ commission as determined by 1367
the director, and to file with the director or the director's 1368

designee reports of their receipts and transactions in the sale of 1369
lottery tickets in ~~such the~~ form ~~as~~ required by the director. 1370

(2) Pursuant to rules adopted by the commission under Chapter 1371
119. of the Revised Code, the director may impose penalties for 1372
the failure of a sales agent to transfer funds to the commission 1373
in a timely manner. Penalties may include monetary penalties, 1374
immediate suspension or revocation of a license, or any other 1375
penalty the commission adopts by rule. 1376

(I) The director may arrange for any person, or any banking 1377
institution, to perform ~~such~~ functions and services in connection 1378
with the operation of the lottery as the director may consider 1379
necessary to carry out this chapter. 1380

(J)(1) As used in this chapter, "statewide joint lottery 1381
game" means a lottery game that the commission sells solely within 1382
this state under an agreement with other lottery jurisdictions to 1383
sell the same lottery game solely within their statewide or other 1384
jurisdictional boundaries. 1385

(2) If the governor directs the director to do so, the 1386
director shall enter into an agreement with other lottery 1387
jurisdictions to conduct statewide joint lottery games. If the 1388
governor signs the agreement personally or by means of an 1389
authenticating officer pursuant to section 107.15 of the Revised 1390
Code, the director then may conduct statewide joint lottery games 1391
under the agreement. 1392

(3) The entire net proceeds from any statewide joint lottery 1393
games shall be used to fund elementary, secondary, vocational, and 1394
special education programs in this state. 1395

(4) The commission shall conduct any statewide joint lottery 1396
games in accordance with rules it adopts under division (B)(5) of 1397
section 3770.03 of the Revised Code. 1398

Sec. 3770.03. (A) The state lottery commission shall 1399
promulgate rules under which a statewide lottery may be conducted. 1400
The rules shall be promulgated pursuant to Chapter 119. of the 1401
Revised Code, except that ~~rules pertaining to~~ instant game rules 1402
shall be promulgated pursuant to section 111.15 of the Revised 1403
Code but are not subject to division (D) of that section. Subjects 1404
covered in ~~such~~ these rules shall include, but need not be limited 1405
to, the following: 1406

(1) The type of lottery to be conducted; 1407

(2) The prices of tickets in the lottery; 1408

(3) The number, nature, and value of prize awards, the manner 1409
and frequency of prize drawings, and the manner in which prizes 1410
shall be awarded to holders of winning tickets. 1411

(B) The commission shall promulgate ~~further~~ rules, in 1412
addition to those described in division (A) of this section, 1413
pursuant to Chapter 119. of the Revised Code under which a 1414
statewide lottery and statewide joint lottery games may be 1415
conducted. Subjects covered in these rules shall include, but not 1416
be limited to, the following: 1417

(1) The locations at which lottery tickets may be sold and 1418
the manner in which they are to be sold. ~~Such~~ These rules may 1419
authorize the sale of lottery tickets by commission personnel or 1420
other licensed individuals from traveling show wagons at the state 1421
fair, and at any other expositions the director of the commission 1422
considers acceptable. ~~Such~~ These rules shall prohibit commission 1423
personnel or other licensed individuals from soliciting from an 1424
exposition the right to sell lottery tickets at that exposition, 1425
but shall allow commission personnel or other licensed individuals 1426
to sell lottery tickets at an exposition if the exposition 1427
requests commission personnel or licensed individuals to do so. 1428
~~Such~~ These rules may also address the accessibility of sales agent 1429

locations to commission products in accordance with the "Americans 1430
with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 1431
et seq. 1432

(2) The manner in which lottery sales revenues are to be 1433
collected, including authorization for the director to impose 1434
penalties for failure by lottery sales agents to transfer revenues 1435
to the commission in a timely manner; 1436

(3) The amount of compensation to be paid licensed lottery 1437
sales agents; 1438

(4) The substantive criteria for the licensing of lottery 1439
sales agents consistent with section 3770.05 of the Revised Code, 1440
and procedures for revoking or suspending ~~such~~ their licenses 1441
consistent with Chapter 119. of the Revised Code. If 1442
circumstances, such as the nonpayment of funds owed by a lottery 1443
sales agent, or other circumstances related to the public safety, 1444
convenience, or trust, require immediate action, the director may 1445
suspend a license without affording an opportunity for a prior 1446
hearing under section 119.07 of the Revised Code. 1447

(5) Special game rules to implement any agreements signed by 1448
the governor that the director enters into with other lottery 1449
jurisdictions under division (J) of section 3770.02 of the Revised 1450
Code to conduct statewide joint lottery games. The rules shall 1451
require that the entire net proceeds of those games that remain, 1452
after associated operating expenses, prize disbursements, lottery 1453
sales agent bonuses, commissions, and reimbursements, and any 1454
other expenses necessary to comply with the agreements or the 1455
rules are deducted from the gross proceeds of those games, be 1456
transferred to the lottery profits education fund under division 1457
(B) of section 3770.06 of the Revised Code. 1458

(C)(1) The ~~state lottery~~ commission shall meet with the 1459
director ~~of the commission~~ at least once each month and shall 1460
convene other meetings at the request of the ~~chairman~~ chairperson 1461

or any five of the members. No action taken by the commission 1462
shall be binding unless at least five of the members present vote 1463
in favor ~~thereof~~ of the action. A written record shall be made of 1464
the proceedings of each meeting and shall be transmitted forthwith 1465
to the governor, the president of the senate, the senate minority 1466
leader, the speaker of the house of representatives, and the house 1467
minority leader. 1468

(2) The director shall present to the commission a report 1469
each month, showing the total revenues, prize disbursements, and 1470
operating expenses of the state lottery for the preceding month. 1471
As soon as practicable after the end of each fiscal year, the 1472
commission shall prepare and transmit to the governor and the 1473
general assembly a report of lottery revenues, prize 1474
disbursements, and operating expenses for the preceding fiscal 1475
year and any recommendations for legislation considered necessary 1476
by the commission. 1477

Sec. 3770.06. (A) There is hereby created the state lottery 1478
gross revenue fund, which shall be in the custody of the treasurer 1479
of state but shall not be part of the state treasury. All gross 1480
revenues received from sales of lottery tickets, fines, fees, and 1481
related proceeds in connection with the statewide lottery and all 1482
gross proceeds from statewide joint lottery games shall be 1483
deposited into the fund. The treasurer of state shall invest any 1484
portion of the fund not needed for immediate use in the same 1485
manner as, and subject to all provisions of law with respect to 1486
the investment of, state funds. The treasurer of state shall 1487
disburse money from the fund on order of the director of the state 1488
lottery commission or the director's designee. All

Except for gross proceeds from statewide joint lottery games, 1489
all revenues of the state lottery gross revenue fund that are not 1490
paid to holders of winning lottery tickets, that are not required 1491
to meet short-term prize liabilities, that are not ~~paid~~ credited 1492

As Reported by the Committee of Conference

to lottery sales agents in the form of bonuses, commissions, or 1493
reimbursements, ~~and~~ that are not paid to financial institutions to 1494
reimburse those institutions for sales agent nonsufficient funds, 1495
and that are collected from sales agents for remittance to 1496
insurers under contract to provide sales agent bonding services 1497
shall be transferred to the state lottery fund, which is hereby 1498
created in the state treasury. In addition, all revenues of the 1499
state lottery gross revenue fund that represent the gross proceeds 1500
from the statewide joint lottery games and that are not paid to 1501
holders of winning lottery tickets, that are not required to meet 1502
short-term prize liabilities, that are not credited to lottery 1503
sales agents in the form of bonuses, commissions, or 1504
reimbursements, and that are not necessary to cover operating 1505
expenses associated with those games or to otherwise comply with 1506
the agreements signed by the governor that the director enters 1507
into under division (J) of section 3770.02 of the Revised Code or 1508
the rules the commission adopts under division (B)(5) of section 1509
3770.03 of the Revised Code shall be transferred to the state 1510
lottery fund. All investment earnings of the fund shall be 1511
credited to the fund. Moneys shall be disbursed from the fund 1512
pursuant to vouchers approved by the director. Total disbursements 1513
for monetary prize awards to holders of winning lottery tickets in 1514
connection with the statewide lottery and purchases of goods and 1515
services awarded as prizes to holders of winning lottery tickets 1516
shall be of an amount equal to at least fifty per cent of the 1517
total revenue accruing from the sale of lottery tickets.

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, 1518
there is hereby established in the state treasury the lottery 1519
profits education fund. Whenever, in the judgment of the director 1520
of budget and management, the amount to the credit of the state 1521
lottery fund that does not represent proceeds from statewide joint 1522
lottery games is in excess of that needed to meet the maturing 1523
obligations of the commission and as working capital for its 1524

As Reported by the Committee of Conference

further operations, the director shall transfer the excess to the
lottery profits education fund in connection with the statewide
lottery. Investment earnings of the lottery profits education fund
shall be credited to the fund. In addition, whenever, in the
judgment of the director of budget and management, the amount to
the credit of the state lottery fund that represents proceeds from
statewide joint lottery games equals the entire net proceeds of
those games as described in division (B)(5) of section 3770.03 of
the Revised Code and the rules adopted under that division, the
director shall transfer those proceeds to the lottery profits
education fund. There shall also be credited to the fund any
repayments of moneys loaned from the educational excellence
investment fund. The Investment earnings of the lottery profits
education fund shall be credited to the fund.

The lottery profits education fund shall be used solely for
the support of elementary, secondary, vocational, and special
education programs as determined in appropriations made by the
general assembly, or as provided in applicable bond proceedings
for the payment of debt service on obligations issued to pay costs
of capital facilities, including those for a system of common
schools throughout the state pursuant to section 2n of Article
VIII, Ohio Constitution. When determining the availability of
money in the lottery profits education fund, the director of
budget and management may consider all balances and estimated
revenues of the fund.

From the amounts that the director of budget and management
transfers in any fiscal year from the state lottery fund to the
lottery profits education fund, the director shall transfer the
initial ten million dollars of those amounts from the lottery
profits education fund to the school building program bond service
fund created in division (Q) of section 3318.26 of the Revised
Code to be pledged for the purpose of paying bond service charges

as defined in division (C) of section 3318.21 of the Revised Code 1557
on one or more issuances of obligations, which obligations are 1558
issued to provide moneys for the school building program 1559
assistance fund created in section 3318.25 of the Revised Code. 1560

(C) There is hereby established in the state treasury the 1561
deferred prizes trust fund. With the approval of the director of 1562
budget and management, an amount sufficient to fund annuity prizes 1563
shall be transferred from the state lottery fund and credited to 1564
the trust fund. The treasurer of state shall credit all earnings 1565
arising from investments purchased under this division to the 1566
trust fund. Within sixty days after the end of each fiscal year, 1567
the director of budget and management shall certify the amount of 1568
investment earnings necessary to have been credited to the trust 1569
fund during the fiscal year just ending to provide for continued 1570
funding of deferred prizes. Any earnings credited in excess of 1571
this certified amount shall be transferred to the lottery profits 1572
education fund. ~~To~~

To provide all or a part of the amounts necessary to fund 1573
deferred prizes awarded by the commission in connection with the 1574
statewide lottery, the treasurer of state, in consultation with 1575
the commission, may invest moneys contained in the deferred prizes 1576
trust fund which represents proceeds from the statewide lottery in 1577
obligations of the type permitted for the investment of state 1578
funds but whose maturities are thirty years or less. 1579
Notwithstanding the requirements of any other section of the 1580
Revised Code, to provide all or part of the amounts necessary to 1581
fund deferred prizes awarded by the commission in connection with 1582
statewide joint lottery games, the treasurer of state, in 1583
consultation with the commission, may invest moneys in the trust 1584
fund which represent proceeds derived from the statewide joint
lottery games in accordance with the rules the commission adopts
under division (B) (5) of section 3770.03 of the Revised Code.

Investments of the ~~deferred prizes~~ trust fund are not subject to the provisions of division (A)(10) of section 135.143 of the Revised Code limiting to five per cent the amount of the state's total average portfolio that may be invested in debt interests and limiting to one-half of one per cent the amount that may be invested in debt interests of a single issuer.

All purchases made under this division shall be effected on a delivery versus payment method and shall be in the custody of the treasurer of state.

The treasurer of state may retain an investment advisor, if necessary. The commission shall pay any costs incurred by the treasurer of state in retaining an investment advisor.

(D) The auditor of state shall conduct annual audits of all funds and any other audits as the auditor of state or the general assembly considers necessary. The auditor of state may examine all records, files, and other documents of the commission, and records of lottery sales agents that pertain to their activities as agents, for purposes of conducting authorized audits.

The state lottery commission shall establish an internal audit program before the beginning of each fiscal year, subject to the approval of the auditor of state. At the end of each fiscal year, the commission shall prepare and submit an annual report to the auditor of state for the auditor of state's review and approval, specifying the internal audit work completed by the end of that fiscal year and reporting on compliance with the annual internal audit program. The form and content of the report shall be prescribed by the auditor of state under division (C) of section 117.20 of the Revised Code.

(E) Whenever, in the judgment of the director of budget and management, an amount of net state lottery proceeds is necessary to be applied to the payment of debt service on obligations, all as defined in sections 151.01 and 151.03 of the Revised Code, the

director shall transfer that amount directly from the state 1611
lottery fund or from the lottery profits education fund to the 1612
bond service fund defined in those sections. The provisions of 1613
this division are subject to any prior pledges or obligation of 1614
those amounts to the payment of bond service charges as defined in 1615
division (C) of section 3318.21 of the Revised Code, as referred 1616
to in division (B) of this section. 1617

Sec. 5111.34. (A) There is hereby created the nursing 1618
facility reimbursement study council consisting of the following 1619
~~fifteen~~ seventeen members: 1620

(1) The director of job and family services; 1621

(2) The deputy director of the office of Ohio health plans of 1622
the department of job and family services; 1623

(3) An employee of the governor's office; 1624

(4) The director of health; 1625

(5) The director of aging; 1626

(6) ~~Two~~ Three members of the house of representatives, not 1627
more than two of whom are members of the same political party, 1628
appointed by the speaker of the house of representatives; 1629

(7) ~~Two~~ Three members of the senate, not more than two of 1630
whom are members of the same political party, appointed by the 1631
president of the senate; 1632

(8) Two representatives of each of the following 1633
organizations, appointed by their respective governing bodies: 1634

(a) The Ohio academy of nursing homes; 1635

(b) The association of Ohio philanthropic homes and housing 1636
for the aging; 1637

(c) The Ohio health care association. 1638

Initial appointments of members described in divisions 1639
(A)(6), (7), and (8) of this section shall be made no later than 1640
ninety days after ~~the effective date of this section~~ June 6, 2001, 1641
except that the initial appointments of the two additional members 1642
described in divisions (A)(6) and (7) of this section added by 1643
Sub. H.B. 405 of the 124th general assembly shall be made not 1644
later than ninety days after the effective date of this amendment. 1645
Vacancies in any of those appointments shall be filled in the same 1646
manner as original appointments. The members described in 1647
divisions (A)(6), (7), and (8) of this section shall serve at the 1648
pleasure of the official or governing body appointing the member. 1649
The members described in divisions (A)(1), (2), (3), (4), and (5) 1650
of this section shall serve for as long as they hold the position 1651
that qualifies them for membership on the council. The speaker of 1652
the house of representatives and the president of the senate 1653
jointly shall appoint the chairperson of the council. Members of 1654
the council shall serve without compensation. 1655

(B) The council shall review, on an ongoing basis, the system 1656
established by sections 5111.20 to 5111.32 of the Revised Code for 1657
reimbursing nursing facilities under the medical assistance 1658
program. The council shall recommend any changes it determines are 1659
necessary. The council periodically shall report its activities, 1660
findings, and recommendations to the governor, the speaker of the 1661
house of representatives, and the president of the senate. 1662

Sec. 5111.872. When the department of mental retardation and 1664
developmental disabilities allocates enrollment numbers to a 1665
county board of mental retardation and developmental disabilities 1666
for home and community-based services provided under the component 1667
of the medicaid program that the department administers under 1668
section 5111.871 of the Revised Code, the department shall 1669
consider all of the following: 1670

(A) The number of individuals with mental retardation or 1671
other developmental disability who are on a waiting list the 1672
county board establishes under division (C) of section 5126.042 of 1673
the Revised Code for those services and are given priority on the 1674
waiting list pursuant to division (D) of that section; 1675

(B) The implementation component required by division 1676
(A)~~(3)~~(4) of section 5126.054 of the Revised Code of the county 1677
board's plan approved under section 5123.046 of the Revised Code; 1678

(C) Anything else the department considers necessary to 1679
enable county boards to provide those services to individuals in 1680
accordance with the priority requirements of division (D) of 1681
section 5126.042 of the Revised Code. 1682

Sec. 5123.043. (A) The director of mental retardation and 1683
developmental disabilities shall adopt rules establishing 1684
procedures for administrative resolution of complaints filed under 1685
division (B) of this section and section 5126.06 of the Revised 1686
Code. The rules shall be adopted in accordance with Chapter 119. 1687
of the Revised Code. 1688

(B) Except as provided in division (C) of this section, any 1689
person ~~who~~ or county board of mental retardation and developmental 1690
disabilities that has a complaint involving any of the programs, 1691
services, policies, or administrative practices of the department 1692
of mental retardation and developmental disabilities or any of the 1693
entities under contract with the department, may file a complaint 1694
with the department. Prior to commencing a civil action regarding 1695
the complaint, a person or county board shall attempt to have the 1696
complaint resolved through the administrative resolution process 1697
established in the rules adopted under this section. After 1698
exhausting the administrative resolution process, the person or 1699
county board may commence a civil action if the complaint is not 1700
settled to the person's or county board's satisfaction. 1701

(C) An employee of the department may not file under this 1702
section a complaint related to the terms and conditions of 1703
employment for the employee. 1704

(D) This section does not apply to a conflict between a 1705
county board of mental retardation and developmental disabilities 1706
and a person or government entity that provides or seeks to 1707
provide services to an individual with mental retardation or other 1708
developmental disability. Section 5126.036 of the Revised Code 1709
applies to such a conflict. 1710

Sec. 5123.046. The department of mental retardation and 1711
developmental disabilities shall review each component of the 1712
three-calendar year plan it receives from a county board of mental 1713
retardation and developmental disabilities under section 5126.054 1714
of the Revised Code and, in consultation with the department of 1715
job and family services and office of budget and management, 1716
approve each plan component that includes all the information and 1717
conditions specified in that section. ~~A~~ The fourth component of 1718
the plan shall be approved or disapproved not later than 1719
forty-five days after the ~~last of the plan's components are~~ fourth 1720
component is submitted to the department under division (B)(3) of 1721
section 5126.054 of the Revised Code. If the department approves 1722
all four components of the plan, the plan is approved. Otherwise, 1723
the plan is disapproved. If the plan is disapproved, the 1724
department shall take action against the county board under 1725
division (B) of section 5126.056 of the Revised Code. 1726

In approving plans under this section, the department shall 1727
ensure that the aggregate of all plans provide for the increased 1728
enrollment into home and community-based services during each 1729
state fiscal year of at least five hundred individuals who did not 1730
receive residential services, supported living, or home and 1731
community-based services the prior state fiscal year if the 1732

department has enough additional enrollment available for this
purpose.

~~If a county board fails to submit all the components of the
plan to the department within the time required by division (B) of
section 5126.054 of the Revised Code or the department disapproves
a county board's plan, the department may withhold all or part of
any funds the department would otherwise allocate to the county
board. The department may not withhold any funds the department
allocates to the county board prior to the date the last of the
plan's components are due or the department disapproves the plan.~~

The department shall establish protocols that the department
shall use to determine whether a county board is complying with
the programmatic and financial accountability mechanisms and
achieving outcomes specified in its approved plan. If the
department determines that a county board is not in compliance
with the mechanisms or achieving the outcomes specified in its
approved plan, the department may take action under division (G)
of section 5126.055 of the Revised Code.

Sec. 5123.048. (A) For state fiscal year 2002, the department
of mental retardation and developmental disabilities shall assign
to a county board of mental retardation and developmental
disabilities the nonfederal share of medicaid expenditures for
habilitation center services that a private habilitation center
provides if all of the following apply:

(1) The individuals who receive the services also received
the services from the center pursuant to a contract the center had
with the department in state fiscal year 2001;

(2) The county board determined under section 5126.041 of the
Revised Code that the individuals who receive the services are
eligible for county board services;

(3) The county board contracts with the center to provide the 1763
services after the center's contract with the department ends. 1764

(B) The department shall also make the assignment under 1765
division (A) of this section for each successive state fiscal year 1766
that the county board contracts with the private habilitation 1767
center to provide the habilitation center services to the 1768
individuals who received the services pursuant to the contract the 1769
department had with the center in state fiscal year 2001. 1770

(C) The amount the department shall assign under divisions 1771
(A) and (B) of this section shall ~~be adequate to ensure that the~~ 1772
~~habilitation center services the individuals receive are~~ 1773
~~comparable in scope to the habilitation center services they~~ 1774
~~received when the private habilitation center was under contract~~ 1775
~~with the department. The amount that the department assigns shall~~ 1776
not be less than the amount the department paid the private 1777
habilitation center for the individuals under each individual who 1778
received the habilitation center services pursuant to the contract 1779
the department had with the center in fiscal year 2001. If the 1780
contract the department had with the private habilitation center 1781
in fiscal year 2001 was for less than the entire fiscal year, the 1782
amount the department shall assign shall be not less than the 1783
amount the department would have paid the center for each 1784
individual who received the services pursuant to the contract had 1785
the contract been for the entire fiscal year. 1786

(D) A county board shall use the assignment it receives under 1787
divisions (A) and (B) of this section to pay the nonfederal share 1788
of the medicaid expenditures for the habilitation center services 1789
the county board is required by division (D) of section 5111.041 1790
of the Revised Code to pay. 1791

Sec. 5123.049. The director of mental retardation and 1792
developmental disabilities shall adopt rules in accordance with 1793

Chapter 119. of the Revised Code governing the authorization and 1794
payment of home and community-based services, medicaid case 1795
management services, and habilitation center services. The rules 1796
shall provide for private providers of the services to receive one 1797
hundred per cent of the medicaid allowable payment amount and for 1798
government providers of the services to receive the federal share 1799
of the medicaid allowable payment, less the amount withheld as a 1800
fee under section 5123.0412 of the Revised Code and any amount 1801
that may be required by rules adopted under section 5123.0413 of 1802
the Revised Code to be deposited into the state MR/DD risk fund. 1803
The rules shall establish the process by which county boards of 1804
mental retardation and developmental disabilities shall certify 1805
and provide the nonfederal share of medicaid expenditures that the 1806
county board is required by division (A) of section ~~5126.056~~ 1807
5126.057 of the Revised Code to pay. The process shall require a 1808
county board to certify that the county board has funding 1809
available at one time for two months costs for those expenditures. 1810
The process may permit a county board to certify that the county 1811
board has funding available at one time for more than two months 1812
costs for those expenditures. 1813

Sec. 5123.0411. The department of mental retardation and 1814
developmental disabilities may bring a mandamus action against a 1815
county board of mental retardation and developmental disabilities 1816
that fails to pay the nonfederal share of medicaid expenditures 1817
that the county board is required by division (A) of section 1818
~~5126.056~~ 5126.057 of the Revised Code to pay. The department may 1819
bring the mandamus action in the court of common pleas of the 1820
county served by the county board or in the Franklin county court 1821
of common pleas. 1822

Sec. 5126.01. As used in this chapter: 1823

(A) As used in this division, "adult" means an individual who 1824

is eighteen years of age or over and not enrolled in a program or
service under Chapter 3323. of the Revised Code and an individual
sixteen or seventeen years of age who is eligible for adult
services under rules adopted by the director of mental retardation
and developmental disabilities pursuant to Chapter 119. of the
Revised Code.

(1) "Adult services" means services provided to an adult
outside the home, except when they are provided within the home
according to an individual's assessed needs and identified in an
individual service plan, that support learning and assistance in
the area of self-care, sensory and motor development,
socialization, daily living skills, communication, community
living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

(a) Adult day habilitation services;

(b) Adult day care;

(c) Prevocational services;

(d) Sheltered employment;

(e) Educational experiences and training obtained through
entities and activities that are not expressly intended for
individuals with mental retardation and developmental
disabilities, including trade schools, vocational or technical
schools, adult education, job exploration and sampling, unpaid
work experience in the community, volunteer activities, and
spectator sports.

~~(3) "Adult services" does not include community or~~

(f) Community employment services and supported employment
services.

(B)(1) "Adult day habilitation services" means adult services
that do the following:

(a) Provide access to and participation in typical activities 1855
and functions of community life that are desired and chosen by the 1856
general population, including such activities and functions as 1857
opportunities to experience and participate in community 1858
exploration, companionship with friends and peers, leisure 1859
activities, hobbies, maintaining family contacts, community 1860
events, and activities where individuals without disabilities are 1861
involved; 1862

(b) Provide supports or a combination of training and 1863
supports that afford an individual a wide variety of opportunities 1864
to facilitate and build relationships and social supports in the 1865
community. 1866

(2) "Adult day habilitation services" includes all of the 1867
following: 1868

(a) Personal care services needed to ensure an individual's 1869
ability to experience and participate in vocational services, 1870
educational services, community activities, and any other adult 1871
day habilitation services; 1872

(b) Skilled services provided while receiving adult day 1873
habilitation services, including such skilled services as behavior 1874
management intervention, occupational therapy, speech and language 1875
therapy, physical therapy, and nursing services; 1876

(c) Training and education in self-determination designed to 1877
help the individual do one or more of the following: develop 1878
self-advocacy skills, exercise the individual's civil rights, 1879
acquire skills that enable the individual to exercise control and 1880
responsibility over the services received, and acquire skills that 1881
enable the individual to become more independent, integrated, or 1882
productive in the community; 1883

(d) Recreational and leisure activities identified in the 1884
individual's service plan as therapeutic in nature or assistive in 1885

developing or maintaining social supports; 1886

(e) Counseling and assistance provided to obtain housing, 1887
including such counseling as identifying options for either rental 1888
or purchase, identifying financial resources, assessing needs for 1889
environmental modifications, locating housing, and planning for 1890
ongoing management and maintenance of the housing selected; 1891

(f) Transportation necessary to access adult day habilitation 1892
services; 1893

(g) Habilitation management, as described in section 5126.14 1894
of the Revised Code. 1895

(3) "Adult day habilitation services" does not include 1896
activities that are components of the provision of residential 1897
services, family support services, or supported living services. 1898

(C) "Community employment services" or "supported employment 1899
services" means job training and other services related to 1900
employment outside a sheltered workshop. "Community employment 1901
services" or "supported employment services" include all of the 1902
following: 1903

(1) Job training resulting in the attainment of competitive 1904
work, supported work in a typical work environment, or 1905
self-employment; 1906

(2) Supervised work experience through an employer paid to 1907
provide the supervised work experience; 1908

(3) Ongoing work in a competitive work environment at a wage 1909
commensurate with workers without disabilities; 1910

(4) Ongoing supervision by an employer paid to provide the 1911
supervision. 1912

(D) As used in this division, "substantial functional 1913
limitation," "developmental delay," and "established risk" have 1914
the meanings established pursuant to section 5123.011 of the 1915

Revised Code.	1916
"Developmental disability" means a severe, chronic disability	1917
that is characterized by all of the following:	1918
(1) It is attributable to a mental or physical impairment or	1919
a combination of mental and physical impairments, other than a	1920
mental or physical impairment solely caused by mental illness as	1921
defined in division (A) of section 5122.01 of the Revised Code;	1922
(2) It is manifested before age twenty-two;	1923
(3) It is likely to continue indefinitely;	1924
(4) It results in one of the following:	1925
(a) In the case of a person under age three, at least one	1926
developmental delay or an established risk;	1927
(b) In the case of a person at least age three but under age	1928
six, at least two developmental delays or an established risk;	1929
(c) In the case of a person age six or older, a substantial	1930
functional limitation in at least three of the following areas of	1931
major life activity, as appropriate for the person's age:	1932
self-care, receptive and expressive language, learning, mobility,	1933
self-direction, capacity for independent living, and, if the	1934
person is at least age sixteen, capacity for economic	1935
self-sufficiency.	1936
(5) It causes the person to need a combination and sequence	1937
of special, interdisciplinary, or other type of care, treatment,	1938
or provision of services for an extended period of time that is	1939
individually planned and coordinated for the person.	1940
(E) "Early childhood services" means a planned program of	1941
habilitation designed to meet the needs of individuals with mental	1942
retardation or other developmental disabilities who have not	1943
attained compulsory school age.	1944

(F)(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization.

(2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

(G) "Family support services" means the services provided under a family support services program operated under section 5126.11 of the Revised Code.

(H) "Habilitation" means the process by which the staff of the facility or agency assists an individual with mental retardation or other developmental disability in acquiring and maintaining those life skills that enable the individual to cope more effectively with the demands of the individual's own person and environment, and in raising the level of the individual's personal, physical, mental, social, and vocational efficiency. Habilitation includes, but is not limited to, programs of formal, structured education and training.

(I) "Habilitation center services" means services provided by a habilitation center certified by the department of mental retardation and developmental disabilities under section 5123.041

of the Revised Code and covered by the medicaid program pursuant 1976
to rules adopted under section 5111.041 of the Revised Code. 1977

(J) "Home and community-based services" means medicaid-funded 1978
home and community-based services provided under a medicaid 1979
component the department of mental retardation and developmental 1980
disabilities administers pursuant to section 5111.871 of the 1981
Revised Code. 1982

(K) "Medicaid" has the same meaning as in section 5111.01 of 1983
the Revised Code. 1984

(L) "Medicaid case management services" means case management 1985
services provided to an individual with mental retardation or 1986
other developmental disability that the state medicaid plan 1987
requires. 1988

(M) "Mental retardation" means a mental impairment manifested 1989
during the developmental period characterized by significantly 1990
subaverage general intellectual functioning existing concurrently 1991
with deficiencies in the effectiveness or degree with which an 1992
individual meets the standards of personal independence and social 1993
responsibility expected of the individual's age and cultural 1994
group. 1995

(N) "Residential services" means services to individuals with 1996
mental retardation or other developmental disabilities to provide 1997
housing, food, clothing, habilitation, staff support, and related 1998
support services necessary for the health, safety, and welfare of 1999
the individuals and the advancement of their quality of life. 2000
"Residential services" includes program management, as described 2001
in section 5126.14 of the Revised Code. 2002

(O) "Resources" means available capital and other assets, 2003
including moneys received from the federal, state, and local 2004
governments, private grants, and donations; appropriately 2005
qualified personnel; and appropriate capital facilities and 2006

equipment. 2007

(P) "Service and support administration" means the duties 2008
performed by a service and support administrator pursuant to 2009
section 5126.15 of the Revised Code. 2010

(Q)(1) "Specialized medical, adaptive, and assistive 2011
equipment, supplies, and supports" means equipment, supplies, and 2012
supports that enable an individual to increase the ability to 2013
perform activities of daily living or to perceive, control, or 2014
communicate within the environment. 2015

(2) "Specialized medical, adaptive, and assistive equipment, 2016
supplies, and supports" includes the following: 2017

(a) Eating utensils, adaptive feeding dishes, plate guards, 2018
mylatex straps, hand splints, reaches, feeder seats, adjustable 2019
pointer sticks, interpreter services, telecommunication devices 2020
for the deaf, computerized communications boards, other 2021
communication devices, support animals, veterinary care for 2022
support animals, adaptive beds, supine boards, prone boards, 2023
wedges, sand bags, sidelayers, bolsters, adaptive electrical 2024
switches, hand-held shower heads, air conditioners, humidifiers, 2025
emergency response systems, folding shopping carts, vehicle lifts, 2026
vehicle hand controls, other adaptations of vehicles for 2027
accessibility, and repair of the equipment received. 2028

(b) Nondisposable items not covered by medicaid that are 2029
intended to assist an individual in activities of daily living or 2030
instrumental activities of daily living. 2031

(R) "Supportive home services" means a range of services to 2032
families of individuals with mental retardation or other 2033
developmental disabilities to develop and maintain increased 2034
acceptance and understanding of such persons, increased ability of 2035
family members to teach the person, better coordination between 2036
school and home, skills in performing specific therapeutic and 2037

management techniques, and ability to cope with specific 2038
situations. 2039

(S)(1) "Supported living" means services provided for as long 2040
as twenty-four hours a day to an individual with mental 2041
retardation or other developmental disability through any public 2042
or private resources, including moneys from the individual, that 2043
enhance the individual's reputation in community life and advance 2044
the individual's quality of life by doing the following: 2045

(a) Providing the support necessary to enable an individual 2046
to live in a residence of the individual's choice, with any number 2047
of individuals who are not disabled, or with not more than three 2048
individuals with mental retardation and developmental disabilities 2049
unless the individuals are related by blood or marriage; 2050

(b) Encouraging the individual's participation in the 2051
community; 2052

(c) Promoting the individual's rights and autonomy; 2053

(d) Assisting the individual in acquiring, retaining, and 2054
improving the skills and competence necessary to live successfully 2055
in the individual's residence. 2056

(2) "Supported living" includes the provision of all of the 2057
following: 2058

(a) Housing, food, clothing, habilitation, staff support, 2059
professional services, and any related support services necessary 2060
to ensure the health, safety, and welfare of the individual 2061
receiving the services; 2062

(b) A combination of life-long or extended-duration 2063
supervision, training, and other services essential to daily 2064
living, including assessment and evaluation and assistance with 2065
the cost of training materials, transportation, fees, and 2066
supplies; 2067

(c) Personal care services and homemaker services; 2068

(d) Household maintenance that does not include modifications 2069
to the physical structure of the residence; 2070

(e) Respite care services; 2071

(f) Program management, as described in section 5126.14 of 2072
the Revised Code. 2073

Sec. 5126.02. (A) As used in this section, "relative" means a 2074
spouse, parent, parent-in-law, sibling, sibling-in-law, child, 2075
child-in-law, grandparent, aunt, or uncle. 2076

(B)(1) There is hereby created in each county a county board 2077
of mental retardation and developmental disabilities consisting of 2078
seven members, five of whom shall be appointed by the board of 2079
county commissioners of the county, and two of whom shall be 2080
appointed by the probate judge of the county. Each member shall be 2081
a resident of the county. The membership of the board shall, as 2082
nearly as possible, reflect the composition of the population of 2083
the county. 2084

All board members shall be persons interested and 2085
knowledgeable in the field of mental retardation and other allied 2086
fields. All board members shall be citizens of the United States. 2087
Of the members appointed by the board of county commissioners, at 2088
least two shall be relatives ~~by blood or marriage~~ of persons 2089
eligible for ~~and currently receiving~~ services provided by the 2090
county board of mental retardation and developmental disabilities, 2091
and, whenever possible, one shall be a relative of a person 2092
eligible for ~~and currently receiving~~ adult services, and the other 2093
shall be a relative of a person eligible for ~~and currently~~ 2094
~~receiving~~ early intervention services or services for pre-school 2095
or school-age children. Of the two members appointed by the 2096
probate judge, at least one shall be a relative ~~by blood or~~ 2097

marriage of a person eligible for ~~or currently receiving~~ 2098
~~residential~~ services in a public or private residential facility 2099
~~subject to regulation or licensure by the director of mental~~ 2100
~~retardation and developmental disabilities under sections 5123.19~~ 2101
~~and 5123.20 of the Revised Code~~ or supported living. 2102

Both the board of county commissioners and the probate judge 2103
shall appoint under this section, to the maximum extent possible, 2104
members who fulfill any applicable requirements of this section 2105
for appointment and who also have professional training and 2106
experience in business management, finance, law, health care 2107
practice, personnel administration, or government service. 2108

(2) All appointments shall be for terms of four years. The 2109
membership of a person appointed as a relative of a recipient of 2110
services shall not be terminated because the services are no 2111
longer received. 2112

Members may be reappointed, except as provided in division 2113
~~(A)~~(B)(3) of this section and section 5126.022 of the Revised 2114
Code. Prior to making a reappointment, the appointing authority 2115
shall ascertain, through written communication with the board, 2116
that the member being considered for reappointment meets the 2117
requirements of this section and section 5126.022 of the Revised 2118
Code. 2119

(3) A member who has served during each of ~~two~~ three 2120
consecutive terms shall not be reappointed for a subsequent term 2121
until ~~one year~~ two years after ceasing to be a member of the 2122
board, except that a member who has served for ~~six~~ ten years or 2123
less within ~~two~~ three consecutive terms may be reappointed for a 2124
subsequent term before becoming ineligible for reappointment for 2125
~~one year~~ two years. 2126

(4) Within sixty days after a vacancy occurs, it shall be 2127
filled by the appointing authority for the unexpired term. Any 2128
member appointed to fill a vacancy occurring prior to the 2129

expiration of the term for which the member's predecessor was 2130
appointed shall hold office for the remainder of that term. 2131
Appointment other than appointment to fill a vacancy shall be made 2132
no later than the last day of November of each year, and the term 2133
of office shall commence on the date of the stated annual 2134
organizational meeting in January. 2135

(5) Board members shall serve without compensation, but shall 2136
be reimbursed for necessary expenses incurred in the conduct of 2137
board business, including those incurred within the county of 2138
residence. 2139

~~(B)~~(C) Each year each board member shall attend at least one 2140
in-service training session provided by or approved by the 2141
department of mental retardation and developmental disabilities. 2142
These training sessions shall not be considered regularly 2143
scheduled meetings of the board. 2144

~~(C)~~(D) A county board of mental retardation and developmental 2145
disabilities shall be operated as a separate administrative and 2146
service entity. The board's functions shall not be combined with 2147
the functions of any other entity of county government. 2148
2149

Sec. 5126.021. As used in this section, "immediate family" 2150
means parents, brothers, sisters, spouses, sons, daughters, 2151
mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, 2152
sons-in-law, and daughters-in-law. 2153

(A) The following individuals shall not serve as members of 2154
county boards of mental retardation and developmental 2155
disabilities: 2156

(1) Elected public officials, except for township trustees, 2157
township clerks, and those excluded from the definition of public 2158
official or employee in division (B) of section 102.01 of the 2159

Revised Code;	2160
(2) Members of the immediate family of another board member;	2161
(3) Board employees and members of the immediate family of board employees;	2162 2163
(4) Former board employees within one calendar year of the termination of employment with the board on which the former employee would serve.	2164 2165 2166
(B) A person may not serve as a member of a county board of mental retardation and developmental disabilities when either the person or a member of the person's immediate family is a board member of a contract agency of that county board unless there is no conflict of interest. In no circumstance shall a member of a county board vote on any matter before the board concerning a contract agency of which the member or a member of the member's immediate family is also a board member or an employee. All questions relating to the existence of a conflict of interest shall be submitted to the local prosecuting attorney and the Ohio ethics commission for resolution.	2167 2168 2169 2170 2171 2172 2173 2174 2175 2176 2177
(C) No employee of an agency contracting with a county board of mental retardation and developmental disabilities or member of the immediate family of such an employee shall serve as a board member or an employee of the county board except that a county board may, pursuant to a resolution adopted by the board, employ a member of the immediate family of an employee of an agency contracting with the board.	2178 2179 2180 2181 2182 2183 2184
(D) No person shall serve as a member or employee of a county board of mental retardation and developmental disabilities if a member of the person's immediate family serves as a county commissioner of the county served by the board unless the person was a member or employee prior to October 31, 1980.	2185 2186 2187 2188 2189
(E) A county board of mental retardation and developmental	2190

disabilities shall not contract with an agency whose board 2191
includes a county commissioner of the county served by the county 2192
board or an employee of the same county board. 2193

Sec. 5126.033. (A) A county board of mental retardation and 2194
developmental disabilities shall not enter into a direct services 2195
contract unless the contract is limited either to the actual 2196
amount of the expenses or to a reasonable and allowable amount 2197
projected by the board. 2198

(B) A county board shall not enter into a direct services 2199
contract that would result in payment to a board member, former 2200
board member, employee, former employee, or member of the 2201
immediate family of a board member, former board member, employee, 2202
or former employee if the person who would receive services under 2203
the contract stands to receive any preferential treatment or any 2204
unfair advantage over other eligible persons. 2205

(C) A county board shall not enter into a direct services 2206
contract for services provided in accordance with section 5126.11 2207
or sections 5126.40 to 5126.46 of the Revised Code under which an 2208
individual, agency, or other entity will employ a management 2209
employee, professional employee, or service employee, as defined 2210
in section 5126.20 of the Revised Code, who is also an employee of 2211
that board unless all of the following conditions are met: 2212

(1) The employee is not in a capacity to influence the award 2213
of the contract. 2214

(2) The employee has not attempted in any manner to secure 2215
the contract on behalf of the individual, agency, or other entity. 2216

(3) The employee is not in management level two or three 2217
according to rules adopted by the director of mental retardation 2218
and developmental disabilities. 2219

(4) The employee ~~does is~~ not ~~hold any administrative or~~ 2220

~~supervisory position in the employ of~~ employed by the board, ~~did~~ 2221
~~not hold such a position~~ during the period when the contract ~~was~~ 2222
is developed, as an administrator or supervisor responsible for 2223
approving or supervising services to be provided under the 2224
contract and agrees not to take such a position while the contract 2225
is in effect, regardless of whether the position is related to the 2226
services provided under the contract. 2227

~~(4)~~(5) The employee has not taken any actions that create the 2228
need for the services to be provided under the contract. 2229

~~(5)~~(6) The individual, agency, or other entity seeks the 2230
services of the employee because of the employee's expertise and 2231
familiarity with the care and condition of one or more eligible 2232
persons and other individuals with such expertise and familiarity 2233
are unavailable, or an eligible person has requested to have the 2234
services provided by that employee. 2235

The superintendent of the county board shall notify the 2236
employee and the individual, agency, or other entity that seeks 2237
the employee's services of the ethics council's determination 2238
under section 5126.032 of the Revised Code regarding the contract. 2239
The council's determination shall be binding on all parties. 2240

The employee who is the subject of the contract shall inform 2241
the superintendent of the county board of any employment the 2242
employee has outside the county board that is with any individual, 2243
agency, or other entity that has a contract with the county board. 2244

Sec. 5126.035. (A) As used in this section: 2245

(1) "Provider" means a person or government entity that 2246
provides services to an individual with mental retardation or 2247
other developmental disability pursuant to a service contract. 2248

(2) "Service contract" means a contract between a county 2249
board of mental retardation and developmental disabilities and a 2250

provider under which the provider is to provide services to an 2251
individual with mental retardation or other developmental 2252
disability. 2253

(B) Each service contract that a county board of mental 2254
retardation and developmental disabilities enters into with a 2255
provider shall do all of the following: 2256

(1) Comply with rules adopted under division (E) of this 2257
section; 2258

(2) If the provider is to provide home and community-based 2259
services, medicaid case management services, or habilitation 2260
center services, comply with all applicable statewide medicaid 2261
requirements; 2262

(3) Include a general operating agreement component and an 2263
individual service needs addendum. 2264

(C) The general operating agreement component shall include 2265
all of the following: 2266

(1) The roles and responsibilities of the county board 2267
regarding services for individuals with mental retardation or 2268
other developmental disability who reside in the county the county 2269
board serves; 2270

(2) The roles and responsibilities of the provider as 2271
specified in the individual service needs addendum; 2272

(3) Procedures for the county board to monitor the provider's 2273
services; 2274

(4) Procedures for the county board to evaluate the quality 2275
of care and cost effectiveness of the provider's services; 2276

(5) Procedures for payment of eligible claims; 2277

(6) If the provider is to provide home and community-based 2278
services, medicaid case management services, or habilitation 2279

center services, both of the following: 2280

(a) Procedures for reimbursement that conform to the 2281
statewide reimbursement process and the county board's plan 2282
submitted under section 5126.054 of the Revised Code; 2283

(b) Procedures that ensure that the county board pays the 2284
nonfederal share of the medicaid expenditures that the county 2285
board is required by division (A) of section ~~5126.056~~ 5126.057 of 2286
the Revised Code to pay. 2287

(7) Procedures for the county board to perform service 2288
utilization reviews and the implementation of required corrective 2289
actions; 2290

(8) Procedures for the provider to submit claims for payment 2291
for a service no later than three hundred thirty days after the 2292
date the service is provided; 2293

(9) Procedures for rejecting claims for payment that are 2294
submitted after the time required by division (B)(9) of this 2295
section; 2296

(10) Procedures for developing, modifying, and executing 2297
initial and subsequent service plans. The procedures shall provide 2298
for the provider's participation. 2299

(11) Procedures for affording individuals due process 2300
protections; 2301

(12) General staffing, training, and certification 2302
requirements that are consistent with state requirements and 2303
compensation arrangements that are necessary to attract, train, 2304
and retain competent personnel to deliver the services pursuant to 2305
the individual service needs addendum; 2306

(13) Methods to be used to document services provided and 2307
procedures for submitting reports the county board requires; 2308

(14) Methods for authorizing and documenting within 2309

seventy-two hours changes to the individual service needs	2310
addendum. The methods shall allow for changes to be initially	2311
authorized verbally and subsequently in writing.	2312
(15) Procedures for modifying the individual service needs	2313
addendum in accordance with changes to the recipient's	2314
individualized service plan;	2315
(16) Procedures for terminating the individual service needs	2316
addendum within thirty days of a request made by the recipient;	2317
(17) A requirement that all parties to the contract accept	2318
the contract's terms and conditions;	2319
(18) A designated contact person and the method of contacting	2320
the designated person to respond to medical or behavioral problems	2321
and allegations of major unusual incidents or unusual incidents;	2322
	2323
(19) Procedures for ensuring the health and welfare of the	2324
recipient;	2325
(20) Procedures for ensuring fiscal accountability and the	2326
collection and reporting of programmatic data;	2327
(21) Procedures for implementing the mediation and	2328
arbitration process under section 5126.036 of the Revised Code;	2329
(22) Procedures for amending or terminating the contract,	2330
including as necessary to make the general operating agreement	2331
component consistent with any changes made to the individual	2332
service needs addendum;	2333
(23) Anything else allowable under federal and state law that	2334
the county board and provider agree to.	2335
(D) The individual service needs addendum shall be consistent	2336
with the general operating agreement component and include all of	2337
the following:	2338

(1) The name of the individual with mental retardation or 2339
other developmental disability who is to receive the services from 2340
the provider and any information about the recipient that the 2341
provider needs to be able to provide the services; 2342

(2) A clear and complete description of the services that the 2343
recipient is to receive as determined using statewide assessment 2344
tools; 2345

(3) A copy of the recipient's assessment and individualized 2346
service plan; 2347

(4) A clear and complete description of the provider's 2348
responsibilities to the recipient and county board in providing 2349
appropriate services in a coordinated manner with other providers 2350
and in a manner that contributes to and ensures the recipient's 2351
health, safety, and welfare. 2352

(E) The director of mental retardation and developmental 2353
disabilities shall adopt rules in accordance with Chapter 119. of 2354
the Revised Code governing service contracts. A service contract 2355
does not negate the requirement that a provider of home and 2356
community-based services, medicaid case management services, or 2357
habilitation center services have a medicaid provider agreement 2358
with the department of job and family services. 2359

Sec. 5126.036. (A) As used in this section: 2360

(1) "Aggrieved party" means any of the following: 2361

(a) The party to a service contract that is aggrieved by an 2362
action the other party has taken or not taken under the service 2363
contract; 2364

(b) A person or government entity aggrieved by the refusal of 2365
a county board of mental retardation and developmental 2366
disabilities to enter into a service contract with the person or 2367
government entity; 2368

(c) A person or government entity aggrieved by termination by 2369
a county board of mental retardation and development disabilities 2370
of a service contract between the person or government entity and 2371
the county board. 2372

(2) "Mediator/arbitrator" means either of the following: 2373

(a) An attorney at law licensed to practice law in this state 2374
who is mutually selected by the parties under division (B)(4) of 2375
this section to conduct mediation and arbitration; 2376

(b) A retired judge who is selected under division (B)(4) of 2377
this section to conduct mediation and arbitration. 2378

(3) "Other party" means any of the following: 2379

(a) The party to a service contract that has taken or not 2380
taken an action under the service contract that causes the 2381
aggrieved party to be aggrieved; 2382

(b) A county board of mental retardation and developmental 2383
disabilities that refuses to enter into a service contract with a 2384
person or government entity; 2385

(c) A county board of mental retardation and developmental 2386
disabilities that terminates a service contract. 2387

(4) "Parties" mean either of the following: 2388

(a) A county board of mental retardation and developmental 2389
disabilities and a provider that have or had a service contract 2390
with each other; 2391

(b) A person or government entity that seeks a service 2392
contract with a county board of mental retardation and 2393
developmental disabilities and the county board that refuses to 2394
enter into the service contract with the person or government 2395
entity. 2396

(5) "Provider" means a person or government entity that 2397

provides services to an individual with mental retardation or 2398
other developmental disability pursuant to a service contract. 2399

(6) "Service contract" means a contract between a county 2400
board of mental retardation and developmental disabilities and a 2401
provider under which the provider is to provide services to an 2402
individual with mental retardation or other developmental 2403
disability. 2404

(B) An aggrieved party that seeks to require the other party 2405
to take or cease an action under a service contract that causes 2406
the aggrieved party to be aggrieved, a person or government entity 2407
aggrieved by the refusal of a county board of mental retardation 2408
and developmental disabilities to enter into a service contract 2409
with the person or government entity, or a person or government 2410
entity aggrieved by a county board's termination of a service 2411
contract between the person or government entity and the county 2412
board and the other party shall follow the following mediation and 2413
arbitration procedures: 2414

(1) No later than thirty days after first notifying the other 2415
party that the aggrieved party is aggrieved, the aggrieved party 2416
shall file a written notice of mediation and arbitration with the 2417
department of mental retardation and developmental disabilities 2418
and provide a copy of the written notice to the other party. The 2419
written notice shall include an explanation of why the aggrieved 2420
party is aggrieved. The department of mental retardation and 2421
developmental disabilities shall provide the department of job and 2422
family services a copy of the notice. 2423

(2) In the case of parties that have a current service 2424
contract with each other and unless otherwise agreed to by both 2425
parties, the parties shall continue to operate under the contract 2426
in the manner they have been operating until the mediation and 2427
arbitration process, including an appeal under division (B)(9) of 2428
this section, if any, is completed. 2429

(3) During the thirty days following the date the aggrieved party files the written notice of mediation and arbitration under division (B)(1) of this section, the parties may attempt to resolve the conflict informally. If the parties are able to resolve the conflict informally within this time, the aggrieved party shall rescind the written notice of mediation and arbitration filed under division (B)(1) of this section.

(4) No later than thirty days after the date the aggrieved party files the written notice of mediation and arbitration under division (B)(1) of this section, the parties shall mutually select an attorney at law licensed to practice law in this state to conduct the mediation and arbitration and schedule the first meeting of the mediation unless the parties informally resolve the conflict under division (B)(3) of this section. If the parties fail to select an attorney to conduct the mediation and arbitration within the required time, the parties shall request that the chief justice of the supreme court of Ohio provide the parties a list of five retired judges who are willing to perform the mediation and arbitration duties. The chief justice shall create such a list and provide it to the parties. To select the retired judge to conduct the mediation and arbitration, the parties shall take turns, beginning with the aggrieved party, striking retired judges from the list. The retired judge remaining on the list after both parties have each stricken two retired judges from the list shall perform the mediation and arbitration duties, including scheduling the first meeting of mediation if the parties are unable to agree on a date for the first meeting.

(5) A stenographic record or tape recording and transcript of each mediation and arbitration meeting shall be maintained as part of the mediation and arbitration's official records. The parties shall share the cost of the mediation and arbitration, including

the cost of the mediator/arbitrator's services but excluding the 2462
cost of representation. 2463

(6) The first mediation meeting shall be held no later than 2464
sixty days after the date the aggrieved party files the written 2465
notice of mediation and arbitration under division (B)(1) of this 2466
section unless the parties informally resolve the conflict under 2467
division (B)(3) of this section or the parties mutually agree to 2468
hold the first meeting at a later time. The mediation shall be 2469
conducted in the manner the parties mutually agree. If the parties 2470
are unable to agree on how the mediation is to be conducted, the 2471
mediator/arbitrator selected under division (B)(4) of this section 2472
shall determine how it is to be conducted. The rules of evidence 2473
may be used. The mediator/arbitrator shall attempt to resolve the 2474
conflict through the mediation process. The mediator/arbitrator's 2475
resolution of the conflict may be applied retroactively. 2476

(7) If the conflict is not resolved through the mediation 2478
process, the mediator/arbitrator shall arbitrate the conflict. The 2479
parties shall present evidence to the mediator/arbitrator in the 2480
manner the mediator/arbitrator requires. The mediator/arbitrator 2481
shall render a written recommendation within thirty days of the 2482
conclusion of the last arbitration meeting based on the service 2483
contract, applicable law, and the preponderance of the evidence 2484
presented during the arbitration. The mediator/arbitrator's 2485
recommendation may be applied retroactively. If the parties agree, 2486
the mediator/arbitrator may continue to attempt to resolve the 2487
conflict through mediation while the mediator/arbitrator 2488
arbitrates the conflict. 2489

(8) No later than thirty days after the mediator/arbitrator 2490
renders a recommendation in an arbitration, the 2491
mediator/arbitrator shall provide the parties with a written 2492
recommendation and forward a copy of the written recommendation, 2493

transcripts from each arbitration meeting, and a copy of all 2494
evidence presented to the mediator/arbitrator during the 2495
arbitration to the departments of mental retardation and 2496
developmental disabilities and job and family services. 2497

(9) No later than thirty days after the department of mental 2498
retardation and developmental disabilities receives the 2499
mediator/arbitrator's recommendation and the materials required by 2500
division (B)(8) of this section, the department shall adopt, 2501
reject, or modify the mediator/arbitrator's recommendation 2502
consistent with the mediator/arbitrator's findings of fact and 2503
conclusions of law or remand any portion of the recommendation to 2504
the mediator/arbitrator for further findings on a specific factual 2505
or legal issue. The mediator/arbitrator shall complete the further 2506
findings and provide the parties and the department with a written 2507
response to the remand within sixty days of the date the 2508
mediator/arbitrator receives the remand. On receipt of the 2509
mediator/arbitrator's response to the remand, the department, 2510
within thirty days, unless the parties agree otherwise, shall 2511
adopt, reject, or modify the mediator/arbitrator's response. The 2512
department's actions regarding the mediator/arbitrator's 2513
recommendation and response are a final adjudication order subject 2514
to appeal to the court of common pleas of Franklin county under 2515
section 119.12 of the Revised Code, except that the court shall 2516
consider only whether the conclusions of law the department adopts 2517
are in accordance with the law. 2518

(10) If the department of job and family services, in 2519
consultation with the department of mental retardation and 2520
developmental disabilities, determines no later than thirty days 2521
following the date the department of mental retardation and 2522
developmental disabilities receives the mediator/arbitrator's 2523
recommendation and the materials required by division (B)(8) of 2524
this section, or, if the recommendation is remanded under division 2525

(B)(9) of this section, thirty days following the date the
department receives the response to the remand, that any aspect of
the conflict between the parties affects the medicaid program, the
department of mental retardation and developmental disabilities
shall take all actions under division (B)(9) of this section in
consultation with the department of job and family services.

(C) If the department of mental retardation and developmental
disabilities is aware of a conflict between a county board of
mental retardation and developmental disabilities and a person or
government entity that provides or seeks to provide services to an
individual with mental retardation or other developmental
disability to which the mediation and arbitration procedures
established by this section may be applied and that the aggrieved
party has not filed a written notice of mediation and arbitration
within the time required by division (B)(1) of this section, the
department may require that the parties implement the mediation
and arbitration procedures.

(D) Each service contract shall provide for the parties to
follow the mediation and arbitration procedures established by
this section if a party takes or does not take an action under the
service contract that causes the aggrieved party to be aggrieved
or if the provider is aggrieved by the county board's termination
of the service contract.

Sec. 5126.042. (A) As used in this section: 6

(1) "Emergency" means any situation that creates for an
individual with mental retardation or developmental disabilities a
risk of substantial self-harm or substantial harm to others if
action is not taken within thirty days. An "emergency" may include
one or more of the following situations:

(a) Loss of present residence for any reason, including legal
action;

(b) Loss of present caretaker for any reason, including 14
serious illness of the caretaker, change in the caretaker's 15
status, or inability of the caretaker to perform effectively for 16
the individual; 17

(c) Abuse, neglect, or exploitation of the individual; 18

(d) Health and safety conditions that pose a serious risk to 19
the individual or others of immediate harm or death; 20

(e) Change in the emotional or physical condition of the 21
individual that necessitates substantial accommodation that cannot 22
be reasonably provided by the individual's existing caretaker. 23

(2) "Medicaid" has the same meaning as in section 5111.01 of 24
the Revised Code. 25

(B) If a county board of mental retardation and developmental 26
disabilities determines that available resources are not 27
sufficient to meet the needs of all individuals who request 28
programs and services and may be offered the programs and 29
services, it shall establish waiting lists for services. The board 30
may establish priorities for making placements on its waiting 31
lists according to an individual's emergency status and shall 32
establish priorities in accordance with division (D) of this 33
section. 34

The individuals who may be placed on a waiting list include 35
individuals with a need for services on an emergency basis and 36
individuals who have requested services for which resources are 37
not available. 38

Except for an individual who is to receive priority for 39
services pursuant to division (D)(3) of this section, an 40
individual who currently receives a service but would like to 41
change to another service shall not be placed on a waiting list 42
but shall be placed on a service substitution list. The board 43
shall work with the individual, service providers, and all 44

appropriate entities to facilitate the change in service as
expeditiously as possible. The board may establish priorities for
making placements on its service substitution lists according to
an individual's emergency status.

In addition to maintaining waiting lists and service
substitution lists, a board shall maintain a long-term service
planning registry for individuals who wish to record their
intention to request in the future a service they are not
currently receiving. The purpose of the registry is to enable the
board to document requests and to plan appropriately. The board
may not place an individual on the registry who meets the
conditions for receipt of services on an emergency basis.

(C) A county board shall establish a separate waiting list
for each of the following categories of services, and may
establish separate waiting lists within the waiting lists:

(1) Early childhood services;

(2) Educational programs for preschool and school age
children;

(3) Adult services;

(4) ~~service~~ Service and support administration;

(5) Residential services and supported living;

(6) Transportation services;

(7) Other services determined necessary and appropriate for
persons with mental retardation or a developmental disability
according to their individual habilitation or service plans;

(8) Family support services provided under section 5126.11 of
the Revised Code.

(D) Except as provided in division ~~(E)~~(F) of this section, a
county board shall do, as priorities, all of the following in

accordance with the assessment component, approved under section 74
5123.046 of the Revised Code, of the county board's plan approved 75
developed under section ~~5123.046~~ 5126.054 of the Revised Code ~~as~~ 76
~~priorities:~~ 77

(1) For the purpose of obtaining additional federal medicaid 78
funds for home and community-based services, medicaid case 79
management services, and habilitation center services, do both of 80
the following: 81

(a) Give an individual who is eligible for home and 82
community-based services and meets both of the following 83
requirements priority over any other individual on a waiting list 84
established under division (C) of this section for home and 85
community-based services that include supported living, 86
residential services, or family support services: 87

(i) Is twenty-two years of age or older; 88

(ii) Receives supported living or family support services. 89

(b) Give an individual who is eligible for home and 90
community-based services and meets both of the following 91
requirements priority over any other individual on a waiting list 92
established under division (C) of this section for home and 93
community-based services that include adult services: 94

(i) Resides in the individual's own home or the home of the 95
individual's family and will continue to reside in that home after 96
enrollment in home and community-based services; 97

(ii) Receives adult services from the county board. 98

(2) As federal medicaid funds become available pursuant to 99
division (D)(1) of this section, give an individual who is 100
eligible for home and community-based services and meets any of 101
the following requirements priority for such services over any 102
other individual on a waiting list established under division (C) 103
of this section ~~other than an individual given priority under~~ 104

~~division (D)(1) of this section:~~ 105

(a) Does not receive residential services or supported 106
living, either needs services in the individual's current living 107
arrangement or will need services in a new living arrangement, and 108
has a primary caregiver who is sixty years of age or older; 109

(b) Is less than twenty-two years of age, ~~does not receive~~ 110
~~residential services or supported living, resides in the home of~~ 111
~~the individual's family,~~ and has at least one of the following 112
service needs that are unusual in scope or intensity: 113

(i) Severe behavior problems for which a behavior support 114
plan is needed; 115

(ii) An emotional disorder for which anti-psychotic 116
medication is needed; 117

(iii) A medical condition that leaves the individual 118
dependent on life-support medical technology; 119

(iv) A condition affecting multiple body systems for which a 120
combination of specialized medical, psychological, educational, or 121
habilitation services are needed; 122

(v) A condition the county board determines to be comparable 123
in severity to any condition described in division (D)~~(1)~~ 124
~~(2)(b)(i)~~ to (iv) of this section and places the individual at 125
significant risk of institutionalization. 126

(c) Is twenty-two years of age or older, does not receive 127
residential services or supported living, and is determined by the 128
county board to have intensive needs for ~~residential~~ home and 129
community-based services on an in-home or out-of-home basis. 130

(3) In fiscal years 2002 and 2003, give an individual who is 131
eligible for home and community-based services, resides in an 132
intermediate care facility for the mentally retarded or nursing 133
facility, chooses to move to another setting with the help of home 134

and community-based services, and has been determined by the
department of mental retardation and developmental disabilities to
be capable of residing in the other setting, priority over any
other individual on a waiting list established under division (C)
of this section for home and community-based services who does not
meet these criteria. The department of mental retardation and
developmental disabilities shall identify the individuals to
receive priority under division (D)(3) of this section, assess the
needs of the individuals, and notify the county boards that are to
provide the individuals priority under division (D)(3) of this
section of the individuals identified by the department and the
individuals' assessed needs.

(E) If two or more individuals on a waiting list established
under division (C) of this section for home and community-based
services have priority for the services pursuant to division
(D)(1) or (2) of this section, a county board may use, until
December 31, 2003, criteria specified in rules adopted under
division (J)(2) of this section in determining the order in which
the individuals with priority will be offered the services.
Otherwise, the county board shall offer the home and
community-based services to such individuals in the order they are
placed on the waiting list.

(F)(1) No individual may receive priority for services
pursuant to division (D) of this section over an individual placed
on a waiting list established under division (C) of this section
on an emergency status.

(2) No more than ~~two~~ four hundred individuals in the state
may receive priority for services during ~~state fiscal years the~~
2002 and 2003 biennium pursuant to division (D)(2)(b) of this
section.

(3) No more than a total of seventy-five individuals in the
state may receive priority for services during state fiscal years

2002 and 2003 pursuant to division (D)(3) of this section. 167

~~(F)(G)~~ Prior to establishing any waiting list under this 168
section, a county board shall develop and implement a policy for 169
waiting lists that complies with this section and rules ~~that the~~ 170
~~department of mental retardation and developmental disabilities~~ 171
~~shall adopt in accordance with Chapter 119. of the Revised Code.~~ 172
~~The department's rules shall include procedures to be followed to~~ 173
~~ensure that the due process rights of individuals placed on~~ 174
~~waiting lists are not violated~~ adopted under division (J) of this 175
section. 176

Prior to placing an individual on a waiting list, the county 177
board shall assess the service needs of the individual in 178
accordance with all applicable state and federal laws. The county 179
board shall place the individual on the appropriate waiting list 180
and may place the individual on more than one waiting list. The 181
county board shall notify the individual of the individual's 182
placement and position on each waiting list on which the 183
individual is placed. 184

At least annually, the county board shall reassess the 185
service needs of each individual on a waiting list. If it 186
determines that an individual no longer needs a program or 187
service, the county board shall remove the individual from the 188
waiting list. If it determines that an individual needs a program 189
or service other than the one for which the individual is on the 190
waiting list, the county board shall provide the program or 191
service to the individual or place the individual on a waiting 192
list for the program or service in accordance with the board's 193
policy for waiting lists. 194

When a program or service for which there is a waiting list 195
becomes available, the county board shall reassess the service 196
needs of the individual next scheduled on the waiting list to 197
receive that program or service. If the reassessment demonstrates 198

that the individual continues to need the program or service, the
board shall offer the program or service to the individual. If it
determines that an individual no longer needs a program or
service, the county board shall remove the individual from the
waiting list. If it determines that an individual needs a program
or service other than the one for which the individual is on the
waiting list, the county board shall provide the program or
service to the individual or place the individual on a waiting
list for the program or service in accordance with the board's
policy for waiting lists. The county board shall notify the
individual of the individual's placement and position on the
waiting list on which the individual is placed.

~~(G)~~(H) A child subject to a determination made pursuant to
section 121.38 of the Revised Code who requires the home and
community-based services provided through the medicaid component
that the department of mental retardation and developmental
disabilities administers under section 5111.871 of the Revised
Code shall receive services through that medicaid component. For
all other services, a child subject to a determination made
pursuant to section 121.38 of the Revised Code shall be treated as
an emergency by the county boards and shall not be subject to a
waiting list.

~~(H)~~(I) Not later than the fifteenth day of March of each
even-numbered year, each county board shall prepare and submit to
the director of mental retardation and developmental disabilities
its recommendations for the funding of services for individuals
with mental retardation and developmental disabilities and its
proposals for reducing the waiting lists for services.

~~(I)~~(J)(1) The department of mental retardation and
developmental disabilities shall adopt rules in accordance with
Chapter 119. of the Revised Code governing waiting lists
established under this section. The rules shall include procedures

to be followed to ensure that the due process rights of 231
individuals placed on waiting lists are not violated. 232

(2) As part of the rules adopted under this division, the 233
department shall adopt, not later than December 31, 2001, rules 234
establishing criteria a county board may use under division (E) of 235
this section in determining the order in which individuals with 236
priority for home and community-based services will be offered the 237
services. The rules shall also specify conditions under which a 238
county board, when there is no individual with priority for home 239
and community-based services pursuant to division (D)(1) or (2) of 240
this section available and appropriate for the services, may offer 241
the services to an individual on a waiting list for the services 242
but not given such priority for the services. The rules adopted 243
under division (J)(2) of this section shall cease to have effect 244
December 31, 2003. 245

(K) The following shall take precedence over the applicable 246
provisions of this section: 247

(1) Medicaid rules and regulations; 248

(2) Any specific requirements that may be contained within a 249
medicaid state plan amendment or waiver program that a county 250
board has authority to administer or with respect to which it has 251
authority to provide services, programs, or supports. 252

Sec. 5126.046. (A) Each county board of mental retardation 2827
and developmental disabilities that has medicaid local 2828
administrative authority under division (A) of section 5126.055 of 2829
the Revised Code for habilitation, vocational, or community 2830
employment services provided as part of home and community-based 2831
services shall create a list of all persons and government 2832
entities eligible to provide such habilitation, vocational, or 2833
community employment services. If the county board chooses and is 2834
eligible to provide such habilitation, vocational, or community 2835

employment services, the county board shall include itself on the 2836
list. The county board shall make the list available to each 2837
individual with mental retardation or other developmental 2838
disability who resides in the county and is eligible for such 2839
habilitation, vocational, or community employment services. The 2840
county board shall also make the list available to such 2841
individuals' families. 2842

An individual with mental retardation or other developmental 2843
disability who is eligible for habilitation, vocational, or 2844
community employment services may choose the provider of the 2845
services. 2846

~~If a~~ A county board that has medicaid local administrative 2847
authority under division (A) of section 5126.055 of the Revised 2848
Code for habilitation, vocational, and community employment 2849
services provided as part of home and community-based services, 2850
~~the county board~~ shall pay the nonfederal share of the 2851
habilitation, vocational, and community employment services when 2852
required by section ~~5126.056~~ 5126.057 of the Revised Code. The 2853
department of mental retardation and developmental disabilities 2854
shall pay the nonfederal share of such habilitation, vocational, 2855
and community employment services when required by section 2856
5123.047 of the Revised Code. 2857

(B) Each month, the department of mental retardation and 2858
developmental disabilities shall create a list of all persons and 2859
government entities eligible to provide residential services and 2860
supported living. The department shall include on the list all 2861
residential facilities licensed under section 5123.19 of the 2862
Revised Code and all supported living providers certified under 2863
section 5126.431 of the Revised Code. The department shall 2864
distribute the monthly lists to county boards that have local 2865
administrative authority under division (A) of section 5126.055 of 2866
the Revised Code for residential services and supported living 2867

provided as part of home and community-based services. A county
board that receives a list shall make it available to each
individual with mental retardation or other developmental
disability who resides in the county and is eligible for such
residential services or supported living. The county board shall
also make the list available to the families of those individuals.

An individual who is eligible for residential services or
supported living may choose the provider of the residential
services or supported living.

~~If a~~ A county board that has medicaid local administrative
authority under division (A) of section 5126.055 of the Revised
Code for residential services and supported living provided as
part of home and community-based services, ~~the county board~~ shall
pay the nonfederal share of the residential services and supported
living when required by section ~~5126.056~~ 5126.057 of the Revised
Code. The department shall pay the nonfederal share of the
residential services and supported living when required by section
5123.047 of the Revised Code.

(C) If a county board that has medicaid local administrative
authority under division (A) of section 5126.055 of the Revised
Code for home and community-based services violates the right
established by this section of an individual to choose a provider
that is qualified and willing to provide services to the
individual, the individual shall receive timely notice that the
individual may request a hearing under section 5101.35 of the
Revised Code.

(D) The departments of mental retardation and developmental
disabilities and job and family services shall adopt rules in
accordance with Chapter 119. of the Revised Code governing the
implementation of this section. The rules shall include procedures
for individuals to choose their service providers. The rules shall
not be limited by a provider selection system established under

section 5126.42 of the Revised Code, including any pool of
providers created pursuant to a provider selection system.

Sec. 5126.05. (A) Subject to the rules established by the
director of mental retardation and developmental disabilities
pursuant to Chapter 119. of the Revised Code for programs and
services offered pursuant to this chapter, and subject to the
rules established by the state board of education pursuant to
Chapter 119. of the Revised Code for programs and services offered
pursuant to Chapter 3323. of the Revised Code, the county board of
mental retardation and developmental disabilities shall:

(1) Administer and operate facilities, programs, and services
as provided by this chapter and Chapter 3323. of the Revised Code
and establish policies for their administration and operation;

(2) Coordinate, monitor, and evaluate existing services and
facilities available to individuals with mental retardation and
developmental disabilities;

(3) Provide early childhood services, supportive home
services, and adult services, according to the plan and priorities
developed under section 5126.04 of the Revised Code;

(4) Provide or contract for special education services
pursuant to Chapters 3317. and 3323. of the Revised Code and
ensure that related services, as defined in section 3323.01 of the
Revised Code, are available according to the plan and priorities
developed under section 5126.04 of the Revised Code;

(5) Adopt a budget, authorize expenditures for the purposes
specified in this chapter and do so in accordance with section
319.16 of the Revised Code, approve attendance of board members
and employees at professional meetings and approve expenditures
for attendance, and exercise such powers and duties as are

prescribed by the director; 2931

(6) Submit annual reports of its work and expenditures, 2932
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to 2933
the director, the superintendent of public instruction, and the 2934
board of county commissioners at the close of the fiscal year and 2935
at such other times as may reasonably be requested; 2936

(7) Authorize all positions of employment, establish 2937
compensation, including but not limited to salary schedules and 2938
fringe benefits for all board employees, approve contracts of 2939
employment for management employees that are for a term of more 2940
than one year, employ legal counsel under section 309.10 of the 2941
Revised Code, and contract for employee benefits; 2942

(8) Provide service and support administration in accordance 2943
with section ~~5126.046~~ 5126.15 of the Revised Code; 2944

(9) Certify respite care homes pursuant to rules adopted 2945
under section 5123.171 of the Revised Code by the director of 2946
mental retardation and developmental disabilities. 2947

(B) To the extent that rules adopted under this section apply 2948
to the identification and placement of handicapped children under 2949
Chapter 3323. of the Revised Code, they shall be consistent with 2950
the standards and procedures established under sections 3323.03 to 2951
3323.05 of the Revised Code. 2952

(C) Any county board may enter into contracts with other such 2953
boards and with public or private, nonprofit, or profit-making 2954
agencies or organizations of the same or another county, to 2955
provide the facilities, programs, and services authorized or 2956
required, upon such terms as may be agreeable, and in accordance 2957
with this chapter and Chapter 3323. of the Revised Code and rules 2958
adopted thereunder and in accordance with sections 307.86 and 2959
5126.071 of the Revised Code. 2960

(D) A county board may combine transportation for children 2961

and adults enrolled in programs and services offered under section 2962
5126.12 with transportation for children enrolled in classes 2963
funded under section 3317.20 or units approved under section 2964
3317.05 of the Revised Code. 2965

(E) A county board may purchase all necessary insurance 2966
policies, may purchase equipment and supplies through the 2967
department of administrative services or from other sources, and 2968
may enter into agreements with public agencies or nonprofit 2969
organizations for cooperative purchasing arrangements. 2970

(F) A county board may receive by gift, grant, devise, or 2971
bequest any moneys, lands, or property for the benefit of the 2972
purposes for which the board is established and hold, apply, and 2973
dispose of the moneys, lands, and property according to the terms 2974
of the gift, grant, devise, or bequest. All money received by 2975
gift, grant, bequest, or disposition of lands or property received 2976
by gift, grant, devise, or bequest shall be deposited in the 2977
county treasury to the credit of such board and shall be available 2978
for use by the board for purposes determined or stated by the 2979
donor or grantor, but may not be used for personal expenses of the 2980
board members. Any interest or earnings accruing from such gift, 2981
grant, devise, or bequest shall be treated in the same manner and 2982
subject to the same provisions as such gift, grant, devise, or 2983
bequest. 2984

(G) The board of county commissioners shall levy taxes and 2985
make appropriations sufficient to enable the county board of 2986
mental retardation and developmental disabilities to perform its 2987
functions and duties, and may utilize any available local, state, 2988
and federal funds for such purpose. 2989

Sec. 5126.054. (A) Each county board of mental retardation 2990
and developmental disabilities shall, by resolution, develop a 2991
three-calendar year plan that includes ~~all of~~ the following four 2992

components: 2993

(1) An assessment component that includes all of the 2994
following: 2995

(a) The number of individuals with mental retardation or 2996
other developmental disability residing in the county who need the 2997
level of care provided by an intermediate care facility for the 2998
mentally retarded, may seek home and community-based services, are 2999
given priority for the services pursuant to division (D) of 3000
section 5126.042 of the Revised Code; the service needs of those 3001
individuals; and the projected annualized cost for services; 3002

(b) The source of funds available to the county board to pay 3003
the nonfederal share of medicaid expenditures that the county 3004
board is required by division (A) of section ~~5126.056~~ 5126.057 of 3005
the Revised Code to pay; 3006

(c) Any other applicable information or conditions that the 3007
department of mental retardation and developmental disabilities 3008
requires as a condition of approving the ~~plan~~ component under 3009
section 5123.046 of the Revised Code. 3010

(2) A component that provides for the recruitment, training, 3011
and retention of existing and new direct care staff necessary to 3012
implement services included in individualized service plans, 3013
including behavior management services and health management 3014
services such as delegated nursing and other habilitation ~~center~~ 3015
services, and protect the health and welfare of individuals 3016
receiving services included in the individual's individualized 3017
service plan by complying with safeguards for unusual and major 3018
unusual incidents, day-to-day program management, and other 3019
requirements the department shall identify. A county board shall 3020
develop this component in collaboration with providers of 3021
medicaid-funded services with which the county board contracts. A 3022
county board shall include all of the following in the component: 3023

(a) The source and amount of funds available for the component; 3024
3025

(b) A plan and timeline for implementing the component with the medicaid providers under contract with the county board; 3026
3027

(c) The mechanisms the county board shall use to ensure the financial and program accountability of the medicaid provider's implementation of the component. 3028
3029
3030

(3) A preliminary implementation component that specifies the number of individuals to be provided, during the first year that the plan is in effect, home and community-based services pursuant to the priority given to them under divisions (D)(1) and (2) of section 5126.042 of the Revised Code and the types of home and community-based services the individuals are to receive; 3031
3032
3033
3034
3035
3036

(4) A component that provides for the implementation of habilitation center services, medicaid case management services, and home and community-based services for individuals who begin to receive the services on or after the date the plan is approved under section 5123.046 of the Revised Code. A county board shall include all of the following in the component: 3037
3038
3039
3040
3041
3042

(a) If the department of mental retardation and developmental disabilities or department of job and family services requires, an agreement to pay the nonfederal share of medicaid expenditures that the county board is required by division (A) of section 5126.056 5126.057 of the Revised Code to pay; 3043
3044
3045
3046
3047
3048

(b) How the services are to be phased in over the period the plan covers, including how the county board will serve individuals on a waiting list established under division (C) of section 5126.042 who are given priority status under division (D)(1) of that section; 3049
3050
3051
3052
3053

(c) Any agreement or commitment regarding the county board's 3054

funding of home and community-based services that the county board 3055
has with the department at the time the county board develops the 3056
component; 3057

(d) Assurances adequate to the department that the county 3058
board will comply with all of the following requirements: 3059

(i) To provide the types of home and community-based services 3060
specified in the preliminary implementation component required by 3061
division (A)(3) of this section to at least the number of 3062
individuals specified in that component; 3063

(ii) To use any additional funds the county board receives 3064
for the services to improve the county board's resource 3065
capabilities for supporting such services available in the county 3066
at the time the component is developed and to expand the services 3067
to accommodate the unmet need for those services in the county; 3068

~~(ii)~~(iii) To employ a business manager who is either a new 3069
employee who has earned at least a bachelor's degree in business 3070
administration or a current employee who has the equivalent 3071
experience of a bachelor's degree in business administration. If 3072
the county board will employ a new employee, the county board 3073
shall include in the component a timeline for employing the 3074
employee. 3075

~~(iii)~~(iv) To employ or contract with a medicaid services 3076
manager who is either a new employee who has earned at least a 3077
bachelor's degree or a current employee who has the equivalent 3078
experience of a bachelor's degree. If the county board will employ 3079
a new employee, the county board shall include in the component a 3080
timeline for employing the employee. Two or three county boards 3081
that have a combined total enrollment in county board services not 3082
exceeding one thousand individuals as determined pursuant to 3083
certifications made under division (B) of section 5126.12 of the 3084
Revised Code may satisfy this requirement by sharing the services 3085

of a medicaid services manager or using the services of a medicaid 3086
services manager employed by or under contract with a regional 3087
council that the county boards establish under section 5126.13 of 3088
the Revised Code. 3089

(e) An agreement to comply with the method, developed by 3090
rules adopted under section 5123.0413 of the Revised Code, of 3091
paying for extraordinary costs, including extraordinary costs for 3092
services to individuals with mental retardation or other 3093
developmental disability, and ensuring the availability of 3094
adequate funds in the event a county property tax levy for 3095
services for individuals with mental retardation or other 3096
developmental disability fails; 3097

(f) Programmatic and financial accountability measures and 3098
projected outcomes expected from the implementation of the plan; 3099

(g) Any other applicable information or conditions that the 3100
department requires as a condition of approving the plan component 3101
under section 5123.046 of the Revised Code. 3102

(B) For the purpose of obtaining the department's approval 3103
under section 5123.046 of the Revised Code of the plan the county 3104
board develops under division (A) of this section, a county board 3105
shall do ~~both~~ all of the following: 3106

(1) Submit the components required by divisions (A)(1) and 3107
(2) of this section to the department not later than August 1, 3108
2001; 3109

(2) Submit the component required by division (A)(3) of this 3110
section to the department not later than January 31, 2002; 3111

(3) Submit the component required by division (A)(3)(4) of 3112
this section to the department not later than November July 1, 3113
~~2001~~ 2002. 3114

(C) A county board whose plan developed under division (A) of 3115
this section is approved by the department under section 5123.046 3116

of the Revised Code shall update and renew the plan in accordance 3117
with a schedule the department shall develop. 3118

Sec. 5126.055. (A) Except as provided in ~~division (G) of this~~ 3119
~~section 5126.056 of the Revised Code~~, a county board of mental 3120
retardation and developmental disabilities ~~with an approved plan~~ 3121
~~under section 5123.046 of the Revised Code~~ has medicaid local 3122
administrative authority to, and shall, do all of the following 3123
for an individual with mental retardation or other developmental 3124
disability who resides in the county that the county board serves 3125
and seeks or receives home and community-based services: 3126

(1) Perform assessments and evaluations of the individual. As 3127
part of the assessment and evaluation process, the county board 3128
shall do all of the following: 3129

(a) Make a recommendation to the department of mental 3130
retardation and developmental disabilities on whether the 3131
department should approve or deny the individual's application for 3132
the services, including on the basis of whether the individual 3133
needs the level of care an intermediate care facility for the 3134
mentally retarded provides; 3135

(b) If the individual's application is denied because of the 3136
county board's recommendation and the individual requests a 3137
hearing under section 5101.35 of the Revised Code, present, with 3138
the department of mental retardation and developmental 3139
disabilities or department of job and family services, whichever 3140
denies the application, the reasons for the recommendation and 3141
denial at the hearing; 3142

(c) If the individual's application is approved, recommend to 3143
the departments of mental retardation and developmental 3144
disabilities and job and family services the services that should 3145
be included in the individual's individualized service plan and, 3146
if either department approves, reduces, denies, or terminates a 3147

service included in the individual's individualized service plan 3148
under section 5111.871 of the Revised Code because of the county 3149
board's recommendation, present, with the department that made the 3150
approval, reduction, denial, or termination, the reasons for the 3151
recommendation and approval, reduction, denial, or termination at 3152
a hearing under section 5101.35 of the Revised Code. 3153

(2) If the individual has been identified by the department 3154
of mental retardation and developmental disabilities as an 3155
individual to receive priority for home and community-based 3156
services pursuant to division (D)(3) of section 5126.042 of the 3157
Revised Code, assist the department in expediting the transfer of 3158
the individual from an intermediate care facility for the mentally 3159
retarded or nursing facility to the home and community-based 3160
services; 3161

(3) In accordance with the rules adopted under section 3162
5126.046 of the Revised Code, perform the county board's duties 3163
under that section regarding assisting the individual's right to 3164
choose a qualified and willing provider of the services and, at a 3165
hearing under section 5101.35 of the Revised Code, present 3166
evidence of the process for appropriate assistance in choosing 3167
providers; 3168

(4) Unless the county board provides the services under 3169
division (A)(5) of this section, contract with the person or 3170
government entity the individual chooses in accordance with 3171
section 5126.046 of the Revised Code to provide the services if 3172
the person or government entity is qualified and agrees to provide 3173
the services. The contract shall contain all the provisions 3174
required by section ~~5126.057~~ 5126.035 of the Revised Code and 3175
require the provider to agree to furnish, in accordance with the 3176
provider's medicaid provider agreement and for the authorized 3177
reimbursement rate, the services the individual requires. 3178

(5) If the county board is certified under section 5123.045 3179

of the Revised Code to provide the services and agrees to provide 3180
the services to the individual and the individual chooses the 3181
county board to provide the services, furnish, in accordance with 3182
the county board's medicaid provider agreement and for the 3183
authorized reimbursement rate, the services the individual 3184
requires; 3185

(6) Monitor the services provided to the individual and 3186
ensure the individual's health, safety, and welfare. The 3187
monitoring shall include quality assurance activities. If the 3188
county board provides the services, the department of mental 3189
retardation and developmental disabilities shall also monitor the 3190
services. 3191

(7) Develop, with the individual and the provider of the 3192
individual's services, an effective individualized service plan 3193
that includes coordination of services, recommend that the 3194
departments of mental retardation and developmental disabilities 3195
and job and family services approve the plan, and implement the 3196
plan unless either department disapproves it; 3197

(8) Have an investigative agent conduct investigations under 3198
section 5126.313 of the Revised Code that concern the individual; 3199

(9) Have a service and support administrator perform the 3200
duties under division (B)(9) of section 5126.15 of the Revised 3201
Code that concern the individual. 3202

(B) Except as provided in ~~division (G) of this section~~ 3203
~~5126.056 of the Revised Code~~, a county board ~~with an approved plan~~ 3204
~~under section 5123.046 of the Revised Code~~ has medicaid local 3205
administrative authority to, and shall, do all of the following 3206
for an individual with mental retardation or other developmental 3207
disability who resides in the county that the county board serves 3208
and seeks or receives medicaid case management services or 3209
habilitation center services, other than habilitation center 3210

services for which a school district is required by division (E) 3211
of section 5111.041 of the Revised Code to pay the nonfederal 3212
share: 3213

(1) Perform assessments and evaluations of the individual for 3214
the purpose of recommending to the departments of mental 3215
retardation and developmental disabilities and job and family 3216
services the services that should be included in the individual's 3217
individualized service plan; 3218

(2) If the department of mental retardation and developmental 3219
disabilities or department of job and family services approves, 3220
reduces, denies, or terminates a service included in the 3221
individual's individualized service plan under section 5111.041 or 3222
5111.042 of the Revised Code because of the county board's 3223
recommendation under division (B)(1) of this section, present, 3224
with the department that made the approval, reduction, denial, or 3225
termination, the reasons for the recommendation and approval, 3226
reduction, denial, or termination at a hearing under section 3227
5101.35 of the Revised Code and inform the individual that the 3228
individual may file a complaint with the county board under 3229
section 5126.06 of the Revised Code at the same time the 3230
individual pursues an appeal under section 5101.35 of the Revised 3231
Code; 3232

(3) In accordance with rules the departments of mental 3233
retardation and developmental disabilities and job and family 3234
services shall adopt in accordance with Chapter 119. of the 3235
Revised Code governing the process for individuals to choose 3236
providers of medicaid case management services and habilitation 3237
center services, assist the individual in choosing the provider of 3238
the services. The rules shall provide for both of the following: 3239

(a) The county board providing the individual up-to-date 3240
information about qualified providers that the department of 3241
mental retardation and developmental disabilities shall make 3242

available to the county board; 3243

(b) If the individual chooses a provider who is qualified and 3244
willing to provide the services but is denied that provider, the 3245
individual receiving timely notice that the individual may request 3246
a hearing under section 5101.35 of the Revised Code and, at the 3247
hearing, the county board presenting evidence of the process for 3248
appropriate assistance in choosing providers. 3249

(4) Unless the county board provides the services under 3250
division (B)(5) of this section, contract with the person or 3251
government entity that the individual chooses in accordance with 3252
the rules adopted under division (B)(3) of this section to provide 3253
the services if the person or government entity is qualified and 3254
agrees to provide the services. The contract shall contain all the 3255
provisions required by section ~~5126.057~~ 5126.035 of the Revised 3256
Code and require the provider to agree to furnish, in accordance 3257
with the provider's medicaid provider agreement and for the 3258
authorized reimbursement rate, the services the individual 3259
requires. 3260

(5) If the county board is certified under section 5123.041 3261
of the Revised Code to provide the services and agrees to provide 3262
the services to the individual and the individual chooses the 3263
county board to provide the services, furnish, in accordance with 3264
the county board's medicaid provider agreement and for the 3265
authorized reimbursement rate, the services the individual 3266
requires; 3267

(6) Monitor the services provided to the individual. The 3268
monitoring shall include quality assurance activities. If the 3269
county board provides the services, the department of mental 3270
retardation and developmental disabilities shall also monitor the 3271
services. 3272

(7) Develop with the individual and the provider of the 3273

individual's services, and with the approval of the departments of 3274
mental retardation and developmental disabilities and job and 3275
family services, implement an effective plan for coordinating the 3276
services in accordance with the individual's approved 3277
individualized service plan; 3278

(8) Have an investigative agent conduct investigations under 3279
section 5126.313 of the Revised Code that concern the individual; 3280

(9) Have a service and support administrator perform the 3281
duties under division (B)(9) of section 5126.15 of the Revised 3282
Code that concern the individual. 3283

(C) A county board shall perform its medicaid local 3284
administrative authority under this section in accordance with all 3285
of the following: 3286

(1) The county board's plan that the department of mental 3287
retardation and developmental disabilities approves under section 3288
5123.046 of the Revised Code; 3289

(2) All applicable federal and state laws; 3290

(3) All applicable policies of the departments of mental 3291
retardation and developmental disabilities and job and family 3292
services and the United States department of health and human 3293
services; 3294

(4) The department of job and family services' supervision 3295
under its authority under section 5111.01 of the Revised Code to 3296
act as the single state medicaid agency; 3297

(5) The department of mental retardation and developmental 3298
disabilities' oversight. 3299

(D) The departments of mental retardation and developmental 3300
disabilities and job and family services shall communicate with 3301
and provide training to county boards regarding medicaid local 3302
administrative authority granted by this section. The 3303

communication and training shall include issues regarding audit 3304
protocols and other standards established by the United States 3305
department of health and human services that the departments 3306
determine appropriate for communication and training. County 3307
boards shall participate in the training. The departments shall 3308
assess the county board's compliance against uniform standards 3309
that the departments shall establish. 3310

(E) A county board may not delegate its medicaid local 3311
administrative authority granted under this section but may 3312
contract with a person or government entity, including a council 3313
of governments, for assistance with its medicaid local 3314
administrative authority. A county board that enters into such a 3315
contract shall notify the director of mental retardation and 3316
developmental disabilities. The notice shall include the tasks and 3317
responsibilities that the contract gives to the person or 3318
government entity. The person or government entity shall comply in 3319
full with all requirements to which the county board is subject 3320
regarding the person or government entity's tasks and 3321
responsibilities under the contract. The county board remains 3322
ultimately responsible for the tasks and responsibilities. 3323

(F) A county board that has medicaid local administrative 3324
authority under this section shall, through the departments of 3325
mental retardation and developmental disabilities and job and 3326
family services, reply to, and cooperate in arranging compliance 3327
with, a program or fiscal audit or program violation exception 3328
that a state or federal audit or review discovers. The department 3329
of job and family services shall timely notify the department of 3330
mental retardation and developmental disabilities and the county 3331
board of any adverse findings. After receiving the notice, the 3332
county board, in conjunction with the department of mental 3333
retardation and developmental disabilities, shall cooperate fully 3334
with the department of job and family services and timely prepare 3335

and send to the department a written plan of correction or
response to the adverse findings. The county board is liable for
any adverse findings that result from an action it takes or fails
to take in its implementation of medicaid local administrative
authority.

(G)(1) If the department of mental retardation and
developmental disabilities or department of job and family
services determines that a county board's implementation of its
medicaid local administrative authority under this section is
deficient, the department that makes the determination shall
require that county board do the following:

~~(a)(1)~~ If the deficiency affects the health, safety, or
welfare of an individual with mental retardation or other
developmental disability, correct the deficiency within
twenty-four hours;

~~(b)(2)~~ If the deficiency does not affect the health, safety,
or welfare of an individual with mental retardation or other
developmental disability, receive technical assistance from the
department or submit a plan of correction to the department that
is acceptable to the department within sixty days and correct the
deficiency within the time required by the plan of correction.

~~(2) If the county board fails to correct a deficiency within
the time required by division (G)(1) of this section to the
satisfaction of the department, or submit an acceptable plan of
correction within the time required by division (G)(1)(b) of this
section, the department shall issue an order terminating the
county board's medicaid local administrative authority over all or
part of home and community-based services, medicaid managed care
services, habilitation center services, all or part of two of
those services, or all or part of all three of those services. The
department shall provide a copy of the order to the board of
county commissioners, probate judge, county auditor, and president~~

~~and superintendent of the county board. The department shall
specify in the order the medicaid local administrative authority
that the department is terminating, the reason for the
termination, and the county board's option and responsibilities
under this division.~~

~~A county board whose medicaid local administrative authority
is terminated may, no later than thirty days after the department
issues the termination order, recommend to the department that
another county board that has not had any of its medicaid local
administrative authority terminated or another entity the
department approves administer the services for which the county
board's medicaid local administrative authority is terminated. The
department may contract with the other county board or entity to
administer the services. If the department enters into such a
contract, the county board shall adopt a resolution giving the
other county board or entity full medicaid local administrative
authority over the services that the other county board or entity
is to administer. The other county board or entity shall be known
as the contracting authority.~~

~~If the county board does not submit a recommendation to the
department regarding a contracting authority within the required
time or the department rejects the county board's recommendation,
the department shall appoint an administrative receiver to
administer the services for which the county board's medicaid
local administrative authority is terminated. To the extent
necessary for the department to appoint an administrative
authority, the department may utilize employees of the department,
management personnel from another county board, or other
individuals who are not employed by or affiliated with in any
manner a person or government entity that provides home and
community-based services, medicaid case management services, or
habilitation center services pursuant to a contract with any~~

~~county board. The administrative receiver shall assume full
administrative responsibility for the county board's services for
which the county board's medicaid local administrative authority
is terminated.~~

~~The contracting authority or administrative receiver shall
develop and submit to the department a plan of correction to
remediate the problems that caused the department to issue the
termination order. If, after reviewing the plan, the department
approves it, the contracting authority or administrative receiver
shall implement the plan.~~

~~The county board shall transfer control of state and federal
funds it is otherwise eligible to receive for the services for
which the county board's medicaid local administrative authority
is terminated and funds the county board may use under division
(B) of section 5126.056 of the Revised Code to pay the nonfederal
share of the services that the county board is required by
division (A) of that section to pay. The county board shall
transfer control of the funds to the contracting authority or
administrative receiver administering the services. The amount the
county board shall transfer shall be the amount necessary for the
contracting authority or administrative receiver to fulfill its
duties in administering the services, including its duties to pay
its personnel for time worked, travel, and related matters. If the
county board fails to make the transfer, the department may
withhold the state and federal funds from the county board and
bring a mandamus action against the county board in the court of
common pleas of the county served by the county board or in the
Franklin county court of common pleas. The mandamus action may not
require that the county board transfer any funds other than the
funds the county board is required by division (G)(2) of this
section to transfer.~~

~~The contracting authority or administrative receiver has the~~

right to authorize the payment of bills in the same manner that 3432
the county board may authorize payment of bills under this chapter 3433
and section 319.16 of the Revised Code. 3434

Sec. 5126.056. (A) The department of mental retardation and 3435
developmental disabilities shall take action under division (B) of 3436
this section against a county board of mental retardation and 3437
developmental disabilities if any of the following are the case: 3438

(1) The county board fails to submit to the department all 3439
the components of its three-year plan required by section 5126.054 3440
of the Revised Code within the time required by division (B) of 3441
that section. 3442

(2) The department disapproves the county board's three-year 3443
plan under section 5123.046 of the Revised Code. 3444

(3) The county board fails, as required by division (C) of 3445
section 5126.054 of the Revised Code, to update and renew its 3446
three-year plan in accordance with a schedule the department 3447
develops under that section. 3448

(4) The county board fails to implement its initial or 3449
renewed three-year plan approved by the department. 3450

(5) The county board fails to correct a deficiency within the 3451
time required by division (G) of section 5126.055 of the Revised 3452
Code to the satisfaction of the department. 3453

(6) The county board fails to submit an acceptable plan of 3454
correction to the department within the time required by division 3455
(G)(2) of section 5126.055 of the Revised Code. 3456

(B) If required by division (A) of this section to take 3457
action against a county board, the department shall issue an order 3458
terminating the county board's medicaid local administrative 3459
authority over all or part of home and community-based services, 3460
medicaid case management services, habilitation center services, 3461

all or part of two of those services, or all or part of all three 3462
of those services. The department shall provide a copy of the 3463
order to the board of county commissioners, probate judge, county 3464
auditor, and president and superintendent of the county board. The 3465
department shall specify in the order the medicaid local 3466
administrative authority that the department is terminating, the 3467
reason for the termination, and the county board's option and 3468
responsibilities under this division. 3469

A county board whose medicaid local administrative authority 3470
is terminated may, not later than thirty days after the department 3471
issues the termination order, recommend to the department that 3472
another county board that has not had any of its medicaid local 3473
administrative authority terminated or another entity the 3474
department approves administer the services for which the county 3475
board's medicaid local administrative authority is terminated. The 3476
department may contract with the other county board or entity to 3477
administer the services. If the department enters into such a 3478
contract, the county board shall adopt a resolution giving the 3479
other county board or entity full medicaid local administrative 3480
authority over the services that the other county board or entity 3481
is to administer. The other county board or entity shall be known 3482
as the contracting authority. 3483

If the department rejects the county board's recommendation 3484
regarding a contracting authority, the county board may appeal the 3485
rejection under section 5123.043 of the Revised Code. 3486

If the county board does not submit a recommendation to the 3487
department regarding a contracting authority within the required 3488
time or the department rejects the county board's recommendation 3489
and the rejection is upheld pursuant to an appeal, if any, under 3490
section 5123.043 of the Revised Code, the department shall appoint 3491
an administrative receiver to administer the services for which 3492
the county board's medicaid local administrative authority is 3493

terminated. To the extent necessary for the department to appoint
an administrative receiver, the department may utilize employees
of the department, management personnel from another county board,
or other individuals who are not employed by or affiliated with in
any manner a person that provides home and community-based
services, medicaid case management services, or habilitation
center services pursuant to a contract with any county board. The
administrative receiver shall assume full administrative
responsibility for the county board's services for which the
county board's medicaid local administrative authority is
terminated.

The contracting authority or administrative receiver shall
develop and submit to the department a plan of correction to
remediate the problems that caused the department to issue the
termination order. If, after reviewing the plan, the department
approves it, the contracting authority or administrative receiver
shall implement the plan.

The county board shall transfer control of state and federal
funds it is otherwise eligible to receive for the services for
which the county board's medicaid local administrative authority
is terminated and funds the county board may use under division
(B) of section 5126.057 of the Revised Code to pay the nonfederal
share of the services that the county board is required by
division (A) of that section to pay. The county board shall
transfer control of the funds to the contracting authority or
administrative receiver administering the services. The amount the
county board shall transfer shall be the amount necessary for the
contracting authority or administrative receiver to fulfill its
duties in administering the services, including its duties to pay
its personnel for time worked, travel, and related matters. If the
county board fails to make the transfer, the department may
withhold the state and federal funds from the county board and

bring a mandamus action against the county board in the court of 3526
common pleas of the county served by the county board or in the 3527
Franklin county court of common pleas. The mandamus action may not 3528
require that the county board transfer any funds other than the 3529
funds the county board is required by division (B) of this section 3530
to transfer. 3531

The contracting authority or administrative receiver has the 3532
right to authorize the payment of bills in the same manner that 3533
the county board may authorize payment of bills under this chapter 3534
and section 319.16 of the Revised Code. 3535

Sec. ~~5126.056~~ 5126.057. (A) A county board of mental 3536
retardation and developmental disabilities that has medicaid local 3537
administrative authority under division (A) of section 5126.055 of 3538
the Revised Code for home and community-based services shall pay 3539
the nonfederal share of medicaid expenditures for such services 3540
provided to an individual with mental retardation or other 3541
developmental disability who the county board determines under 3542
section 5126.041 of the Revised Code is eligible for county board 3543
services unless division (C)(2) of section 5123.047 of the Revised 3544
Code requires the department of mental retardation and 3545
developmental disabilities to pay the nonfederal share. 3546

A county board that has medicaid local administrative 3547
authority under division (B) of section 5126.055 of the Revised 3548
Code for medicaid case management services shall pay the 3549
nonfederal share of medicaid expenditures for such services 3550
provided to an individual with mental retardation or other 3551
developmental disability who the county board determines under 3552
section 5126.041 of the Revised Code is eligible for county board 3553
services unless division (B)(2) of section 5123.047 of the Revised 3554
Code requires the department of mental retardation and 3555
developmental disabilities to pay the nonfederal share. 3556

A county board shall pay the nonfederal share of medicaid expenditures for habilitation center services when required to do so by division (D) of section 5111.041 of the Revised Code.

(B) A county board may use the following funds to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay:

(1) To the extent consistent with the levy that generated the taxes, the following taxes:

(a) Taxes levied pursuant to division (L) of section 5705.19 of the Revised Code and section 5705.222 of the Revised Code;

(b) Taxes levied under section 5705.191 of the Revised Code that the board of county commissioners allocates to the county board to pay the nonfederal share of the services.

(2) Funds that the department of mental retardation and developmental disabilities distributes to the county board under sections 5126.11, 5126.12, 5126.15, 5126.18, and 5126.44 of the Revised Code;

(3) Funds that the department allocates to the county board for habilitation center services provided under section 5111.041 of the Revised Code;

(4) Earned federal revenue funds the county board receives for medicaid services the county board provides pursuant to the county board's valid medicaid provider agreement.

(C) If by December 31, 2001, the United States secretary of health and human services approves at least five hundred more slots for home and community-based services for calendar year 2002 than were available for calendar year 2001, each county board shall provide, by the last day of calendar year 2001, assurances to the department of mental retardation and developmental disabilities that the county board will have for calendar year

2002 at least one-third of the value of one-half, effective mill 3587
levied in the county the preceding year available to pay the 3588
nonfederal share of the services that the county board is required 3589
by division (A) of this section to pay. 3590

If by December 31, 2002, the United States secretary approves 3591
at least five hundred more slots for home and community-based 3592
services for calendar year 2003 than were available for calendar 3593
year 2002, each county board shall provide, by the last day of 3594
calendar year 2002, assurances to the department that the county 3595
board will have for calendar year 2003 at least two-thirds of the 3596
value of one-half, effective mill levied in the county the 3597
preceding year available to pay the nonfederal share of the 3598
services that the county board is required by division (A) of this 3599
section to pay. 3600

If by December 31, 2003, the United States secretary approves 3601
at least five hundred more slots for home and community-based 3602
services for calendar year 2004 than were available for calendar 3603
year 2003, each county board shall provide, by the last day of 3604
calendar year 2003 and each calendar year thereafter, assurances 3605
to the department that the county board will have for calendar 3606
year 2004 and each calendar year thereafter at least the value of 3607
one-half, effective mill levied in the county the preceding year 3608
available to pay the nonfederal share of the services that the 3609
county board is required by division (A) of this section to pay. 3610

(D) Each year, each county board shall adopt a resolution 3611
specifying the amount of funds it will use in the next year to pay 3612
the nonfederal share of the services that the county board is 3613
required by division (A) of this section to pay. The amount 3614
specified shall be adequate to assure that the services will be 3615
available in the county in a manner that conforms to all 3616
applicable state and federal laws. A county board shall state in 3617
its resolution that the payment of the nonfederal share represents 3618

an ongoing financial commitment of the county board. A county
board shall adopt the resolution in time for the county auditor to
make the determination required by division (E) of this section.

(E) Each year, a county auditor shall determine whether the
amount of funds a county board specifies in the resolution it
adopts under division (D) of this section will be available in the
following year for the county board to pay the nonfederal share of
the services that the county board is required by division (A) of
this section to pay. The county auditor shall make the
determination not later than the last day of the year before the
year in which the funds are to be used.

Sec. 5126.06. (A) Except as provided in division (B) of this
section and section ~~5126.035~~ 5126.036 of the Revised Code, any
person who has a complaint involving any of the programs,
services, policies, or administrative practices of a county board
of mental retardation and developmental disabilities or any of the
entities under contract with the county board, may file a
complaint with the board. Prior to commencing a civil action
regarding the complaint, a person shall attempt to have the
complaint resolved through the administrative resolution process
established in the rules adopted under section 5123.043 of the
Revised Code. After exhausting the administrative resolution
process, the person may commence a civil action if the complaint
is not settled to the person's satisfaction.

(B) An employee of a county board may not file under this
section a complaint related to the terms and conditions of
employment of the employee.

Sec. 5126.14. The entity responsible for the habilitation
management included in adult day habilitation services, the
program management included in residential services, and the

As Reported by the Committee of Conference

program management included in supported living shall provide 3649
administrative oversight by doing all of the following: 3650

(A) Having available supervisory personnel to monitor and 3651
ensure implementation of all interventions in accordance with 3652
every individual service plan implemented by the staff who work 3653
with the individuals receiving the services; 3654

(B) Providing appropriate training and technical assistance 3655
for all staff who work with the individuals receiving services; 3656

(C) Communicating with service and support administration 3657
staff for the purpose of coordinating activities to ensure that 3658
services are provided to individuals in accordance with individual 3659
service plans and intended outcomes; 3660

(D) Monitoring for unusual and major unusual incidents and 3661
cases of abuse, neglect, ~~or exploitation, or misappropriation of~~ 3662
~~funds~~ involving the individual under the care of staff who are 3663
providing the services; taking immediate actions as necessary to 3664
maintain the health, safety, and welfare of the individuals 3665
receiving the services; and providing notice of unusual and major 3666
unusual incidents and suspected cases of abuse, neglect, ~~or~~ 3667
~~exploitation, or misappropriation of funds~~ to the ~~investigative~~ 3668
~~agent for the~~ county board of mental retardation and developmental 3669
disabilities; 3670

(E) Performing other administrative duties as required by 3671
state or federal law or by the county board of mental retardation 3672
and developmental disabilities through contracts with providers. 3673

Sec. 5126.15. (A) A county board of mental retardation and 3674
developmental disabilities shall provide service and support 3675
administration to each individual three years of age or older who 3676
is eligible for ~~other services of the board~~ service and support 3677
administration if the individual requests, or a person on the 3678
individual's behalf requests, service and support administration. 3679

A board shall provide service and support administration to each 3680
individual receiving home and community-based services. A board 3681
may provide, in accordance with the service coordination 3682
requirements of 34 C.F.R. 303.23, service and support 3683
administration to an individual under three years of age eligible 3684
for early intervention services under 34 C.F.R. part 303. A board 3685
may provide service and support administration to an individual 3686
who is not eligible for other services of the board. Service and 3687
support administration shall be provided in accordance with rules 3688
adopted under section 5126.08 of the Revised Code. 3689

A board may provide service and support administration by 3690
directly employing service and support administrators or by 3691
contracting with entities for the performance of service and 3692
support administration. Individuals employed or under contract as 3693
service and support administrators shall not be in the same 3694
collective bargaining unit as employees who perform duties that 3695
are not administrative. 3696

Individuals employed by a board as service and support 3697
administrators shall not be assigned responsibilities for 3698
implementing other services for individuals and shall not be 3699
employed by or serve in a decision-making or policy-making 3700
capacity for any other entity that provides programs or services 3701
to individuals with mental retardation or developmental 3702
disabilities. An individual employed as a conditional status 3703
service and support administrator shall perform the duties of 3704
service and support administration only under the supervision of a 3705
management employee who is a service and support administration 3706
supervisor or a professional employee who is a service and support 3707
administrator. 3708

(B) The individuals employed by or under contract with a 3709
board to provide service and support administration shall do all 3710
of the following: 3711

- (1) Establish an individual's eligibility for the services of the county board of mental retardation and developmental disabilities; 3712
3713
3714
- (2) Assess individual needs for services; 3715
- (3) Develop individual service plans with the active participation of the individual to be served, other persons selected by the individual, and, when applicable, the provider selected by the individual, and recommend the plans for approval by the department of mental retardation and developmental disabilities when services included in the plans are funded through medicaid; 3716
3717
3718
3719
3720
3721
3722
- (4) Establish budgets for services based on the individual's assessed needs and preferred ways of meeting those needs; 3723
3724
- (5) Assist individuals in making selections from among the providers they have chosen; 3725
3726
- (6) Ensure that services are effectively coordinated and provided by appropriate providers; 3727
3728
- (7) Establish and implement an ongoing system of monitoring the implementation of individual service plans to achieve consistent implementation and the desired outcomes for the individual; 3729
3730
3731
3732
- (8) Perform quality assurance reviews as a distinct function of service and support administration; 3733
3734
- (9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual; 3735
3736
3737
3738
3739
- (10) Ensure that each individual receiving services has a designated person who is responsible on a continuing basis for 3740
3741

providing the individual with representation, advocacy, advice,
and assistance related to the day-to-day coordination of services
in accordance with the individual's service plan. The service and
support administrator shall give the individual receiving services
an opportunity to designate the person to provide daily
representation. If the individual declines to make a designation,
the administrator shall make the designation. In either case, the
individual receiving services may change at any time the person
designated to provide daily representation.

(C) Subject to available funds, the department of mental
retardation and developmental disabilities shall pay a county
board an annual subsidy for service and support administration.
The amount of the subsidy shall be equal to the greater of twenty
thousand dollars or two hundred dollars times the board's
certified average daily membership. The payments shall be made in
semiannual installments, which shall be made no later than the
thirty-first day of August and the thirty-first day of January.
Funds received shall be used solely for service and support
administration.

Sec. 5126.17. (A)(1) ~~Annually, on~~ On the request of the
director of mental retardation and developmental disabilities, the
tax commissioner shall provide to the department of mental
retardation and developmental disabilities information specifying
each county's taxable value.

(2) On request of the director, each county auditor shall
submit a certified report to the department specifying the
county's taxes and the aggregate rate of tax authorized to be
levied by the board of county commissioners pursuant to division
(L) of section 5705.19 and section 5705.222 of the Revised Code or
the aggregate rate of tax authorized pursuant to that division and
that section and certified to the county auditor under section

319.30 of the Revised Code. Tax information submitted by the 3773
county auditor shall be obtained from the most recent tax year for 3774
which the information is available. 3775

(3) The director may request any other tax information 3776
necessary for purposes of sections 5126.16 to 5126.18 of the 3777
Revised Code. 3778

(B) Using the information obtained under this section and 3779
each board's enrollment, the department shall annually determine 3780
the hypothetical statewide average revenue per enrollee and, for 3781
each county board, the hypothetical local revenue per enrollee. 3782
~~This division applies only in those years in which the director~~ 3783
~~determines that the department will implement section 5126.18 of~~ 3784
~~the Revised Code.~~ 3785

Sec. 5126.18. (A) The department of mental retardation and 3786
developmental disabilities shall pay to each county board of 3787
mental retardation and developmental disabilities whose 3788
hypothetical local revenue per enrollee is less than the 3789
hypothetical statewide average revenue per enrollee the amount 3790
computed under division (B) of this section. Payments shall be 3791
made on or before the thirtieth day of September. 3792

(B) Except as provided in division (C) of this section, the 3793
amount to be paid to a county board shall be equal to the 3794
following: 3795

(1) If the county board's effective tax rate is equal to or 3796
greater than one mill, the product obtained by multiplying the 3797
following two quantities: 3798

(a) The amount by which the hypothetical statewide average 3799
revenue per enrollee exceeds the county board's hypothetical local 3800
revenue per enrollee; 3801

(b) The county board's infant and adult enrollment. 3802

(2) If the county board's effective tax rate is less than one 3803
mill, the product obtained by multiplying the following three 3804
quantities: 3805

(a) The amount by which the hypothetical statewide average 3806
revenue per enrollee exceeds the county board's hypothetical local 3807
revenue per enrollee; 3808

(b) The county board's infant and adult enrollment; 3809

(c) The quotient obtained by dividing the county board's 3810
effective tax rate by one mill. 3811

(C)(1) For each individual who is enrolled in active 3812
treatment under the community alternative funding system as 3813
defined in section 5126.12 of the Revised Code, the department may 3814
reduce the portion of the payment made under this section for that 3815
individual by fifty per cent or less. 3816

(2) If, in any year, an appropriation by the general assembly 3817
to the department for purposes of this section is less than the 3818
total amount required to make, in full, the payments as determined 3819
under and authorized by this section, the department shall pay 3820
each county board the same percentage of the board's payment as 3821
determined under this section without regard to this division that 3822
the amount of the appropriation available for purposes of this 3823
section is of the total amount of payments as determined under 3824
this section without regard to this division. 3825

(3) Payments made to a county board pursuant to this section 3826
shall not exceed thirty per cent of the payments made to that 3827
board pursuant to section 5126.12 of the Revised Code. 3828

(D) Payments made under this section are supplemental to all 3829
other state or federal funds for which county boards are eligible 3830
and shall be made from funds appropriated for purposes of this 3831
section. A county board shall use the payments solely to pay the 3832
nonfederal share of medicaid expenditures that division (A) of 3833

section ~~5126.056~~ 5126.057 of the Revised Code requires the county
board to pay.

(E) Each county board that receives a payment under this
section shall, for each year it receives a payment, certify to the
department that it will make a good faith effort to obtain
revenues, including federal funds, for services to individuals
included in its infant and adult enrollment.

Sec. 5126.19. (A) The director of mental retardation and
developmental disabilities may grant temporary funding from the
community mental retardation and developmental disabilities trust
fund based on allocations to ~~a county board~~ boards of mental
retardation and developmental disabilities. ~~With the consent of~~
~~the county board, the~~ The director may distribute all or part of
the funding directly to a county board, the persons who provide
the services for which the funding is granted, or persons with
mental retardation or developmental disabilities who are to
receive those services.

(B) Funding granted under division (A) of this section shall
be granted according to the availability of moneys in the fund and
priorities established by the director. Funding may be granted for
any of the following purposes:

(1) Behavioral or short-term interventions for persons with
mental retardation or developmental disabilities that assist them
in remaining in the community by preventing institutionalization;

(2) Emergency respite care services, as defined in section
5126.11 of the Revised Code;

(3) Family support services provided under section 5126.11 of
the Revised Code;

(4) Supported living, as defined in section 5126.01 of the
Revised Code;

(5) Staff training for county board employees, employees of
providers of residential services as defined in section 5126.01 of
the Revised Code, and other personnel under contract with a county
board, to provide the staff with necessary training in serving
mentally retarded or developmentally disabled persons in the
community;

(6) Short-term provision of early childhood services provided
under section 5126.05, adult services provided under sections
5126.05 and 5126.051, and service and support administration
provided under section 5126.15 of the Revised Code, when local
moneys are insufficient to meet the need for such services due to
the successive failure within a two-year period of three or more
proposed levies for the services;

(7) Contracts with providers of residential services to
maintain persons with mental retardation and developmental
disabilities in their programs and avoid institutionalization.

(C) If the trust fund contains more than ten million dollars
on the first day of July the director shall use one million
dollars for payments under section 5126.12 of the Revised Code,
one million dollars for payments under section 5126.18 of the
Revised Code, and two million dollars for payments under section
5126.44 of the Revised Code. Distributions of funds under this
division shall be made prior to August 31 of the state fiscal year
in which the funds are available. The funds shall be ~~distributed~~
allocated to a county board in an amount equal to the same
percentage of the total amount ~~distributed for the services that~~
allocated to the county board ~~received in~~ the immediately
preceding state fiscal year.

(D) In addition to making grants under division (A) of this
section, the director may use money available in the trust fund
for the same purposes that rules adopted under section 5123.0413
of the Revised Code provide for money in the state MR/DD risk fund

and the state insurance against MR/DD risk fund, both created 3896
under that section, to be used. 3897

Sec. 5126.221. Each county board of mental retardation and 3898
developmental disabilities shall employ at least one investigative 3899
agent or contract with a person or government entity, including 3900
another county board of mental retardation and developmental 3901
disabilities or a regional council established under section 3902
5126.13 of the Revised Code, for the services of an investigative 3903
agent. Neither a county board nor a person or government entity 3904
with which a county board contracts for the services of an 3905
investigative agent shall assign any duties to an investigative 3906
agent other than conducting investigations under section 5126.313 3907
of the Revised Code. 3908

All investigative agents shall be trained in civil and 3909
criminal investigatory practices ~~and~~. The person responsible for 3910
supervising the work of the investigative agents shall report 3911
directly to a county board's superintendent regarding the 3912
investigative agents. ~~No~~ 3913

No investigative agent shall do anything that interferes with 3914
the investigative agent's objectivity in conducting investigations 3915
under section 5126.313 of the Revised Code. 3916

Sec. 5126.357. (A) As used in this section: 3917

(1) "In-home care" means the supportive services provided 3918
within the home of an individual who receives funding for the 3919
services as a county board client, including any client who 3920
receives residential services funded through home ~~or~~ and 3921
community-based services, family support services provided under 3922
section 5126.11 of the Revised Code, or supported living provided 3923
in accordance with sections 5126.41 to 5126.47 of the Revised 3924
Code. "In-home care" includes care that is provided outside a 3925

client's home in places incidental to the home, and while 3926
traveling to places incidental to the home, except that "in-home 3927
care" does not include care provided in the facilities of a county 3928
board of mental retardation and developmental disabilities or care 3929
provided in schools. 3930

(2) "Parent" means either parent of a child, including an 3931
adoptive parent but not a foster parent. 3932

(3) "Unlicensed in-home care worker" means an individual who 3933
provides in-home care but is not a health care professional. A 3934
county board worker may be an unlicensed in-home care worker. 3935

(4) "Family member" means a parent, sibling, spouse, son, 3936
daughter, grandparent, aunt, uncle, cousin, or guardian of the 3937
individual with mental retardation or a developmental disability 3938
if the individual with mental retardation or developmental 3939
disabilities lives with the person and is dependent on the person 3940
to the extent that, if the supports were withdrawn, another living 3941
arrangement would have to be found. 3942

(B) Except as provided in division (D) of this section, a 3943
family member of an individual with mental retardation or a 3944
developmental disability may authorize an unlicensed in-home care 3945
worker to give or apply prescribed medication or perform other 3946
health care tasks as part of the in-home care provided to the 3947
individual, if the family member is the primary supervisor of the 3948
care and the unlicensed in-home care worker has been selected by 3949
the family member and is under the direct supervision of the 3950
family member. Sections 4723.62 and 5126.351 to 5126.356 of the 3951
Revised Code do not apply to the in-home care authorized by a 3952
family member under this section. Instead, a family member shall 3953
obtain a prescription, if applicable, and written instructions 3954
from a health care professional for the care to be provided to the 3955
individual. The family member shall authorize the unlicensed 3956
in-home care worker to provide the care by preparing a written 3957

document granting the authority. The family member shall provide 3958
the unlicensed in-home care worker with appropriate training and 3959
written instructions in accordance with the instructions obtained 3960
from the health care professional. 3961

(C) A family member who authorizes an unlicensed in-home care 3962
worker to give or apply prescribed medication or perform other 3963
health care tasks retains full responsibility for the health and 3964
safety of the individual receiving the care and for ensuring that 3965
the worker provides the care appropriately and safely. No entity 3966
that funds or monitors the provision of in-home care may be held 3967
liable for the results of the care provided under this section by 3968
an unlicensed in-home care worker, including such entities as the 3969
county board of mental retardation and developmental disabilities, 3970
any other entity that employs an unlicensed in-home care worker, 3971
and the department of mental retardation and developmental 3972
disabilities. 3973

An unlicensed in-home care worker who is authorized under 3974
this section by a family member to provide care to an individual 3975
may not be held liable for any injury caused in providing the 3976
care, unless the worker provides the care in a manner that is not 3977
in accordance with the training and instructions received or the 3978
worker acts in a manner that constitutes wanton or reckless 3979
misconduct. 3980

(D) A county board of mental retardation and developmental 3981
disabilities may evaluate the authority granted by a family member 3982
under this section to an unlicensed in-home care worker at any 3983
time it considers necessary and shall evaluate the authority on 3984
receipt of a complaint. If the board determines that a family 3985
member has acted in a manner that is inappropriate for the health 3986
and safety of the individual receiving the services, the 3987
authorization granted by the family member to an unlicensed 3988
in-home care worker is void, and the family member may not 3989

authorize other unlicensed in-home care workers to provide the 3990
care. In making such a determination, the board shall use 3991
appropriately licensed health care professionals and shall provide 3992
the family member an opportunity to file a complaint under section 3993
5126.06 of the Revised Code. 3994

Sec. 5505.01. As used in this chapter: 1129

(A) "Employee" means any qualified employee in the uniform 1130
division of the state highway patrol, any qualified employee in 1131
the radio division hired prior to November 2, 1989, and any state 1132
highway patrol cadet attending training school pursuant to section 1133
5503.05 of the Revised Code whose attendance at the school begins 1134
on or after June 30, 1991. "Employee" includes the superintendent 1135
of the state highway patrol. In all cases of doubt, the state 1136
highway patrol retirement board shall determine whether any person 1137
is an employee as defined in this division, and the decision of 1138
the board is final. 1139

(B) "Prior service" means all service rendered as an employee 1140
of the state highway patrol prior to September 5, 1941, to the 1141
extent credited by the board, provided that in no case shall prior 1142
service include service rendered prior to November 15, 1933. 1143
1144

(C) "Total service" means all service rendered by an employee 1145
to the extent credited by the board. Total service includes all of 1146
the following: 1147

(1) Contributing service rendered by the employee since last 1148
becoming a member of the state highway patrol retirement system; 1149

(2) All prior service credit; 1150

(3) Restored service credit as provided in this chapter; 1151

(4) Military service credit purchased under division (D) of 1152
section 5505.16 or section 5505.25 of the Revised Code; 1153

(5) Credit granted under division (C) of section 5505.17 or 1154
section 5505.201, 5505.40, or 5505.402 of the Revised Code; 1155

(6) Credit for any period, not to exceed three years, during 1156
which the member was out of service and receiving benefits under 1157
Chapters 4121. and 4123. of the Revised Code. 1158

(D) "Beneficiary" means any person, except a retirant, who is 1159
in receipt of a pension or other benefit payable from funds of the 1160
retirement system. 1161

(E) "Regular interest" means interest compounded at rates 1162
designated from time to time by the retirement board. 1163

(F) "Plan" means the provisions of this chapter. 1164

(G) "Retirement system" or "system" means the state highway 1165
patrol retirement system created and established in the plan. 1166

(H) "Contributing service" means all service rendered by a 1167
member since September 4, 1941, for which deductions were made 1168
from the member's salary under the plan. 1169

(I) "Retirement board" or "board" means the state highway 1170
patrol retirement board provided for in the plan. 1171

(J) Except as provided in section 5505.18 of the Revised 1172
Code, "member" means any employee included in the membership of 1173
the retirement system, whether or not rendering contributing 1174
service. 1175

(K) "Retirant" means any member who retires with a pension 1176
payable from the retirement system. 1177

(L) "Accumulated contributions" means the sum of all amounts 1178
deducted from the salary of a member and credited to the member's 1179
individual account in the employees' savings fund. 1180

(M)(1) Except as provided in division (M)(2) of this section, 1181
"final average salary" means the average of the highest salary 1182

paid a member during any three consecutive or nonconsecutive 1183
years. 1184

If a member has less than three years of contributing 1185
service, the member's final average salary shall be the average of 1186
the annual rates of salary paid to the member during the member's 1187
total years of contributing service. 1188

(2) If a member is credited with service under division 1189
(C)(6) of this section or division (D) of section 5505.16 of the 1190
Revised Code, the member's final average salary shall be the 1191
average of the highest salary that was paid to the member or would 1192
have been paid to the member, had the member been rendering 1193
contributing service, during any three consecutive or 1194
nonconsecutive years. If that member has less than three years of 1195
total service, the member's final average salary shall be the 1196
average of the annual rates of salary that were paid to the member 1197
or would have been paid to the member during the member's years of 1198
total service. 1199

(N) "Pension" means an annual amount payable by the 1200
retirement system throughout the life of a person or as otherwise 1201
provided in the plan. All pensions shall be paid in equal monthly 1202
installments. 1203

(O) "Pension reserve" means the present value of any pension, 1204
or benefit in lieu of any pension, computed upon the basis of 1205
mortality and other tables of experience and interest the board 1206
shall from time to time adopt. 1207

(P) "Deferred pension" means a pension for which an eligible 1208
member of the system has made application and which is payable as 1209
provided in division (A) or (B) of section 5505.16 of the Revised 1210
Code. 1211

(Q) "Retirement" means termination as an employee of the 1212
state highway patrol, with application having been made to the 1213

system for a pension or a deferred pension. 1214

(R) "Fiduciary" means any of the following: 1215

(1) A person who exercises any discretionary authority or 1216
control with respect to the management of the system, or with 1217
respect to the management or disposition of its assets; 1218

(2) A person who renders investment advice for a fee, direct 1219
or indirect, with respect to money or property of the system; 1220

(3) A person who has any discretionary authority or 1221
responsibility in the administration of the system. 1222

(S)(1) Except as otherwise provided in this division, 1223
"salary" means all compensation, wages, and other earnings paid to 1224
a member by reason of employment but without regard to whether any 1225
of the compensation, wages, or other earnings are treated as 1226
deferred income for federal income tax purposes. Salary includes 1227
all of the following: 1228

(a) Payments for shift differential, hazard duty, 1229
professional achievement, and longevity; 1230

(b) Payments for occupational injury leave, personal leave, 1231
sick leave, bereavement leave, administrative leave, and vacation 1232
leave used by the member; 1233

(c) Payments made under a disability leave program sponsored 1234
by the state for which the state is required by section 5505.151 1235
of the Revised Code to make periodic employer and employee 1236
contributions to the retirement system. 1237

(2) "Salary" does not include any of the following: 1238

(a) Payments resulting from the conversion of accrued but 1239
unused sick leave, personal leave, compensatory time, and vacation 1240
leave; 1241

(b) Payments made by the state to provide life insurance, 1242

sickness, accident, endowment, health, medical, hospital, dental, 1243
or surgical coverage, or other insurance for the member or the 1244
member's family, or amounts paid by the state to the member in 1245
lieu of providing that insurance; 1246

(c) Payments for overtime work; 1247

(d) Incidental benefits, including lodging, food, laundry, 1248
parking, or services furnished by the state, use of property or 1249
equipment of the state, and reimbursement for job-related expenses 1250
authorized by the state including moving and travel expenses and 1251
expenses related to professional development; 1252

(e) Payments made to or on behalf of a member that are in 1253
excess of the annual compensation that may be taken into account 1254
by the retirement system under division (a)(17) of section 401 of 1255
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1256
401 (a)(17), as amended; 1257

(f) Payments made under division (B), (C), or (E) of section 1258
5923.05 of the Revised Code, Section 4 of Substitute Senate Bill 1259
No. 3 of the 119th general assembly, ~~or~~ Section 3 of Amended 1260
Substitute Senate Bill No. ~~173~~ 164 of the 124th general assembly, 1261
or Amended Substitute House Bill No. 405 of the 124th general 1262
assembly. 1263

(3) The retirement board shall determine by rule whether any 1264
compensation, wages, or earnings not enumerated in this division 1265
are salary, and its decision shall be final. 1266

(T) "Actuary" means an individual who satisfies all of the 1267
following requirements: 1268

(1) Is a member of the American academy of actuaries; 1269

(2) Is an associate or fellow of the society of actuaries; 1270

(3) Has a minimum of five years' experience in providing 1271
actuarial services to public retirement plans. 1272

Sec. 5705.44. When contracts or leases run beyond the 3995
termination of the fiscal year in which they are made, the fiscal 3996
officer of the taxing authority shall make a certification for the 3997
amount required to meet the obligation of such contract or lease 3998
maturing in such fiscal year. The amount of the obligation under 3999
such contract or lease remaining unfulfilled at the end of a 4000
fiscal year, and which will become payable during the next fiscal 4001
year, shall be included in the annual appropriation measure for 4002
the next year as a fixed charge. 4003

The certificate required by section 5705.41 of the Revised 4004
Code as to money in the treasury shall not be required for 4005
contracts on which payments are to be made from the earnings of a 4006
publicly operated water works or public utility, but in the case 4007
of any such contract made without such certification, no payment 4008
shall be made on account thereof, and no claim or demand thereon 4009
shall be recoverable, except out of such earnings. That 4010
certificate also shall not be required if requiring the 4011
certificate makes it impossible for a county board of mental 4012
retardation and developmental disabilities to pay the nonfederal 4013
share of medicaid expenditures that the county board is required 4014
by division (A) of section ~~5126.056~~ 5126.057 of the Revised Code 4015
to pay. 4016

Sec. 5709.12. (A) As used in this section, "independent 4017
living facilities" means any residential housing facilities and 4018
related property that are not a nursing home, residential care 4019
facility, or adult care facility as defined in division (A) of 4020
section 5701.13 of the Revised Code. 4021

(B) Lands, houses, and other buildings belonging to a county, 4022
township, or municipal corporation and used exclusively for the 4023
accommodation or support of the poor, or leased to the state or 4024
any political subdivision for public purposes shall be exempt from 4025

taxation. Real and tangible personal property belonging to
institutions that is used exclusively for charitable purposes
shall be exempt from taxation, including real property belonging
to an institution that is a nonprofit corporation that receives a
grant under the Thomas Alva Edison program authorized by division
(C) of section 122.33 of the Revised Code at any time during the
tax year and being held for leasing or resale to others. If, at
any time during a tax year for which such property is exempted
from taxation, the corporation ceases to qualify for such a grant,
the director of development shall notify the tax commissioner, and
the tax commissioner shall cause the property to be restored to
the tax list beginning with the following tax year. All property
owned and used by a nonprofit organization exclusively for a home
for the aged, as defined in section 5701.13 of the Revised Code,
also shall be exempt from taxation.

(C) If a home for the aged is operated in conjunction with or
at the same site as independent living facilities, the exemption
granted in division (B) of this section shall include kitchen,
dining room, clinic, entry ways, maintenance and storage areas,
and land necessary for access commonly used by both residents of
the home for the aged and residents of the independent living
facilities. Other facilities commonly used by both residents of
the home for the aged and residents of independent living units
shall be exempt from taxation only if the other facilities are
used primarily by the residents of the home for the aged. Vacant
land currently unused by the home, and independent living
facilities and the lands connected with them are not exempt from
taxation. Except as provided in division (A) of section 5709.121
of the Revised Code, property of a home leased for nonresidential
purposes is not exempt from taxation.

(D)(1) A private corporation established under federal law,
defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as

amended, the objects of which include encouraging the advancement 4053
of science generally, or of a particular branch of science, the 4054
promotion of scientific research, the improvement of the 4055
qualifications and usefulness of scientists, or the increase and 4056
diffusion of scientific knowledge is conclusively presumed to be a 4057
charitable or educational institution. A private corporation 4058
established as a nonprofit corporation under the laws of a state, 4059
that is exempt from federal income taxation under section 4060
501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 4061
U.S.C.A. 1, as amended, and has as its principal purpose one or 4062
more of the foregoing objects, also is conclusively presumed to be 4063
a charitable or educational institution. 4064

The fact that an organization described in this division 4065
operates in a manner that results in an excess of revenues over 4066
expenses shall not be used to deny the exemption granted by this 4067
section, provided such excess is used, or is held for use, for 4068
exempt purposes or to establish a reserve against future 4069
contingencies; and, provided further, that such excess may not be 4070
distributed to individual persons or to entities that would not be 4071
entitled to the tax exemptions provided by this chapter. Nor shall 4072
the fact that any scientific information diffused by the 4073
organization is of particular interest or benefit to any of its 4074
individual members be used to deny the exemption granted by this 4075
section, provided that such scientific information is available to 4076
the public for purchase or otherwise. 4077

(2) Division (D)(2) of this section does not apply to real 4078
property exempted from taxation under this section and division 4079
(C) of section 5709.121 of the Revised Code and belonging to a 4080
nonprofit corporation described in division (D)(1) of this section 4081
that has received a grant under the Thomas Alva Edison grant 4082
program authorized by division (C) of section 122.33 of the 4083
Revised Code during any of the tax years the property was exempted 4084

from taxation.

4085

When a private corporation ~~as~~ described in ~~this~~ division
(D)(1) of this section sells all or any portion of a tract, lot,
or parcel of real estate that has been exempt from taxation under
this section and section 5709.121 of the Revised Code, the portion
sold shall be restored to the tax list for the year following the
year of the sale and a charge shall be levied against the sold
property in an amount equal to the tax savings on such property
during the four tax years preceding the year the property is
placed on the tax list. The tax savings equals the amount of the
additional taxes that would have been levied if such property had
not been exempt from taxation.

4086

4087

4088

4089

4090

4091

4092

4093

4094

4095

4096

The charge constitutes a lien of the state upon such property
as of the first day of January of the tax year in which the charge
is levied and continues until discharged as provided by law. The
charge may also be remitted for all or any portion of such
property that the tax commissioner determines is entitled to
exemption from real property taxation for the year such property
is restored to the tax list under any provision of the Revised
Code, other than sections 725.02, 1728.10, 3735.67, 5709.40,
5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84,
upon an application for exemption covering the year such property
is restored to the tax list filed under section 5715.27 of the
Revised Code.

4097

4098

4099

4100

4101

4102

4103

4104

4105

4106

4107

4108

(E) Real property held by an organization organized and
operated exclusively for charitable purposes as described under
section 501(c)(3) of the Internal Revenue Code and exempt from
federal taxation under section 501(a) of the Internal Revenue
Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose
of constructing or rehabilitating residences for eventual transfer
to qualified low-income families through sale, lease, or land
installment contract, shall be exempt from taxation.

4109

4110

4111

4112

4113

4114

4115

4116

The exemption shall commence on the day title to the property 4117
is transferred to the organization and shall continue to the end 4118
of the tax year in which the organization transfers title to the 4119
property to a qualified low-income family. In no case shall the 4120
exemption extend beyond the second succeeding tax year following 4121
the year in which the title was transferred to the organization. 4122
If the title is transferred to the organization and from the 4123
organization to a qualified low-income family in the same tax 4124
year, the exemption shall continue to the end of that tax year. 4125
The proportionate amount of taxes that are a lien but not yet 4126
determined, assessed, and levied for the tax year in which title 4127
is transferred to the organization shall be remitted by the county 4128
auditor for each day of the year that title is held by the 4129
organization. 4130

Upon transferring the title to another person, the 4131
organization shall file with the county auditor an affidavit 4132
affirming that the title was transferred to a qualified low-income 4133
family or that the title was not transferred to a qualified 4134
low-income family, as the case may be; if the title was 4135
transferred to a qualified low-income family, the affidavit shall 4136
identify the transferee by name. If the organization transfers 4137
title to the property to anyone other than a qualified low-income 4138
family, the exemption, if it has not previously expired, shall 4139
terminate, and the property shall be restored to the tax list for 4140
the year following the year of the transfer and a charge shall be 4141
levied against the property in an amount equal to the amount of 4142
additional taxes that would have been levied if such property had 4143
not been exempt from taxation. The charge constitutes a lien of 4144
the state upon such property as of the first day of January of the 4145
tax year in which the charge is levied and continues until 4146
discharged as provided by law. 4147

The application for exemption shall be filed as otherwise 4148

required under section 5715.27 of the Revised Code, except that
the organization holding the property shall file with its
application documentation substantiating its status as an
organization organized and operated exclusively for charitable
purposes under section 501(c)(3) of the Internal Revenue Code and
its qualification for exemption from federal taxation under
section 501(a) of the Internal Revenue Code, and affirming its
intention to construct or rehabilitate the property for the
eventual transfer to qualified low-income families.

As used in this division, "qualified low-income family" means
a family whose income does not exceed two hundred per cent of the
official federal poverty guidelines as revised annually in
accordance with section 673(2) of the "Omnibus Budget
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as
amended, for a family size equal to the size of the family whose
income is being determined.

Sec. 5709.121. Real property and tangible personal property
belonging to a charitable or educational institution or to the
state or a political subdivision, shall be considered as used
exclusively for charitable or public purposes by such institution,
the state, or political subdivision, if it meets one of the
following requirements:

(A) It is used by such institution, the state, or political
subdivision, or by one or more other such institutions, the state,
or political subdivisions under a lease, sublease, or other
contractual arrangement:

(1) As a community or area center in which presentations in
music, dramatics, the arts, and related fields are made in order
to foster public interest and education therein;

(2) For other charitable, educational, or public purposes;

(B) It is made available under the direction or control of 4179
such institution, the state, or political subdivision for use in 4180
furtherance of or incidental to its charitable, ~~educational~~ 4181
educational, or public purposes and not with the view to profit. 4182

(C) It is used by an organization described in division (D) 4183
of section 5709.12 of the Revised Code. If the organization is a 4184
corporation that receives a grant under the Thomas Alva Edison 4185
grant program authorized by division (C) of section 122.33 of the 4186
Revised Code at any time during the tax year, "used," for the 4187
purposes of this division, includes holding property for lease or 4188
resale to others. 4189

Sec. 5709.17. (A) Real estate held or occupied by an 4190
association or corporation, organized or incorporated under the 4191
laws of this state relative to soldiers' memorial associations, 4192
monumental building associations, or cemetery associations or 4193
corporations, which in the opinion of the trustees, directors, or 4194
managers thereof is necessary and proper to carry out the object 4195
intended for such association or corporation, shall be exempt from 4196
taxation. 4197

(B) Real estate and tangible personal property held or 4198
occupied by a war veterans' organization, which is organized 4199
exclusively for charitable purposes and incorporated under the 4200
laws of this state or the United States, except real estate held 4201
by such organization for the production of rental income, shall be 4202
exempt from taxation. 4203

(C) Tangible personal property held by a corporation 4204
chartered under 112 Stat. 1335, 36 U.S.C.A. 40701, described in 4205
section 501(c)(3) of the Internal Revenue Code, and exempt from 4206
taxation under section 501(a) of the Internal Revenue Code shall 4207
be exempt from taxation if it is ~~surplus~~ property obtained as 4208
described in 112 Stat. ~~1340~~ 1335-1341, 36 U.S.C.A. ~~40730~~ Chapter 4209

<u>407.</u>	4210
Sec. 5709.40. (A) As used in this section:	4211
(1) <u>"Blighted area" and "impacted city" have the same</u>	4212
<u>meanings as in section 1728.01 of the Revised Code.</u>	4213
(2) <u>"Business day" means a day of the week excluding</u>	4214
<u>Saturday, Sunday, and a legal holiday as defined under section</u>	4215
<u>1.14 of the Revised Code.</u>	4216
(3) <u>"Housing renovation" means a project carried out for</u>	4217
<u>residential purposes.</u>	4218
(2) (4) <u>"Improvement" means the increase in the assessed value</u>	4219
<u>of any a parcel of real property that would first appear on the</u>	4220
<u>tax list and duplicate of real and public utility property</u>	4221
<u>subsequent to after the effective date of an ordinance adopted</u>	4222
<u>under this section were it not for the exemption specified granted</u>	4223
<u>by that ordinance. "Improvement" does not include a public</u>	4224
<u>infrastructure improvement.</u>	4225
(5) <u>"Incentive district" means an area not more than three</u>	4226
<u>hundred acres in size enclosed by a continuous boundary and having</u>	4227
<u>one or more of the following distress characteristics:</u>	4228
(a) <u>At least fifty-one per cent of the residents of the</u>	4229
<u>district have incomes of less than eighty per cent of the median</u>	4230
<u>income of residents of the political subdivision in which the</u>	4231
<u>district is located, as determined in the same manner specified</u>	4232
<u>under section 119(b) of the "Housing and Community Development Act</u>	4233
<u>of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;</u>	4234
(b) <u>The average rate of unemployment in the district during</u>	4235
<u>the most recent twelve-month period for which data are available</u>	4236
<u>is equal to at least one hundred fifty per cent of the average</u>	4237
<u>rate of unemployment for this state for the same period.</u>	4238
(c) <u>At least twenty per cent of the people residing in the</u>	4239

district live at or below the poverty level as defined in the
federal Housing and Community Development Act of 1974, 42 U.S.C.
5301, as amended, and regulations adopted pursuant to that act.

4240
4241
4242

(d) The district is a blighted area.

4243

(e) The district is in a situational distress area as
designated by the director of development under division (F) of
section 122.23 of the Revised Code.

4244
4245
4246

(f) As certified by the engineer for the political
subdivision, the public infrastructure serving the district is
inadequate to meet the development needs of the district as
evidenced by a written economic development plan or urban renewal
plan for the district that has been adopted by the legislative
authority of the subdivision.

4247
4248
4249
4250
4251

(g) The district is comprised entirely of unimproved land
that is located in a distressed area as defined in section 122.23
of the Revised Code.

4252
4253
4254

(6) "Project" means development activities undertaken on one
or more parcels, including, but not limited to, construction,
expansion, and alteration of buildings or structures, demolition,
remediation, and site development, and any building or structure
that results from those activities.

4255
4256
4257
4258
4259

(7) "Public infrastructure improvement" includes, but is not
limited to, public roads and highways; water and sewer lines;
environmental remediation; land acquisition, including acquisition
in aid of industry, commerce, distribution, or research;
demolition, including demolition on private property when
determined to be necessary for economic development purposes;
stormwater and flood remediation projects, including such projects
on private property when determined to be necessary for public
health, safety, and welfare; the provision of gas, electric, and
communications service facilities; and the enhancement of public

4260
4261
4262
4263
4264
4265

waterways through improvements that allow for greater public access.

(B) The legislative authority of a municipal corporation, by ordinance, may declare improvements to ~~a parcel~~ certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this ~~section~~ division only if the parcel is located in a blighted area of an impacted city ~~as those terms are defined in section 1728.01 of the Revised Code~~. Except as otherwise provided in division ~~(B)(1), (2), or (3)~~ (D) of this section, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation; the percentage exempted shall not, except as otherwise provided in that division ~~(B)(1), (2), or (3) of this section~~, exceed the estimated percentage of the incremental demand placed on the public infrastructure improvements that is directly attributable to the exempted improvement. The ordinance shall specify the percentage of the improvement to be exempted from taxation.

An ordinance adopted or amended under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the municipal corporation that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. For the purposes of this division, a public infrastructure improvement directly benefits such a parcel only if a project on the parcel places direct, additional demand on the public infrastructure improvement or, if the public infrastructure improvement has not yet been completed, will place direct, additional demand on the public infrastructure improvement once it is completed. The service payments provided for in section 5709.42 of the Revised Code shall be used to finance the public

infrastructure improvements designated in the ordinance or for the 4296
purpose described in division (D)(1) of this section.

(C) The legislative authority of a municipal corporation may 4297
adopt an ordinance creating an incentive district and declaring 4298
improvements to parcels within the district to be a public purpose 4299
and exempt from taxation as provided in this section. The 4300
ordinance shall delineate the boundary of the district and 4301
specifically identify each parcel within the district. A district 4302
may not include any parcel that is or has been exempted from 4303
taxation under division (B) of this section or that is or has been 4304
within another district created under this division. An ordinance 4305
may create more than one such district, and more than one 4306
ordinance may be adopted under this division. 4307

An ordinance under this division shall specify the life of 4308
the district and the percentage of the improvements to be exempted 4309
and shall designate the public infrastructure improvements made or 4310
to be made that benefit or serve parcels in the district. The 4311
service payments provided for in section 5709.42 of the Revised 4312
Code shall be used to finance the designated public infrastructure 4313
improvements or for the purpose described in division (D)(1) of 4314
this section. 4315

An ordinance adopted under this division may authorize the 4316
use of service payments provided for in section 5709.42 of the 4317
Revised Code for the purpose of housing renovations within the 4318
district, provided that the ordinance also designates public 4319
infrastructure improvements that benefit or serve the district, 4320
and that a project within the district places real property in use 4321
for commercial or industrial purposes. Service payments may be 4322
used to finance or support loans, deferred loans, and grants to 4323
persons for the purpose of housing renovations within the 4324
district. The ordinance shall designate the parcels within the 4325
district that are eligible for housing renovation. The ordinance 4326

shall state separately the amounts or the percentages of the
expected aggregate service payments that are designated for each
public infrastructure improvement and for the general purpose of
housing renovations.

Except with the approval of the board of education of each
city, local, or exempted village school district within the
territory of which the district is or will be located, the life of
a district shall not exceed ten years, and the percentage of
improvements to be exempted shall not exceed seventy-five per
cent. With such approval, the life of a district may be not more
than thirty years, and the percentage of improvements to be
exempted may be not more than one hundred per cent.

Approval of a board of education shall be obtained in the
manner provided in division (D) of this section for exemptions
under division (B) of this section, except that the notice to the
board of education shall delineate the boundaries of the district,
specifically identify each parcel within the district, identify
each anticipated improvement in the district, provide an estimate
of the true value in money of each such improvement, specify the
life of the district and the percentage of improvements that would
be exempted, and indicate the date on which the legislative
authority intends to adopt the ordinance.

A municipal corporation shall not adopt an ordinance under
this division after June 30, 2007.

(D)(1) If the ordinance declaring improvements to a parcel to
be a public purpose or creating an incentive district specifies
that payments in lieu of taxes provided for in section 5709.42 of
the Revised Code shall be paid to the city, local, or exempted
village school district in which the parcel is located in the
amount of the taxes that would have been payable to the school
district if the improvements had not been exempted from taxation,
the percentage of the improvement that may be exempted from

taxation may exceed seventy-five per cent, and the exemption may 4359
be granted for up to thirty years, without the approval of the 4360
board of education as otherwise required under division ~~(B)~~(D)(2) 4361
of this section. 4362

(2) Improvements with respect to a parcel may be exempted 4363
from taxation under division (B) of this section for up to ten 4364
years or, with the approval under this paragraph of the board of 4365
education of the city, local, or exempted village school district 4366
within ~~the territory of which the improvements are or will be~~ 4367
parcel is located, for up to thirty years. The percentage of the 4368
improvement exempted from taxation may, with such approval, exceed 4369
seventy-five per cent, but shall not exceed one hundred per cent. 4370
Not later than forty-five business days prior to adopting an 4371
ordinance under this section declaring improvements to be a public 4372
purpose, the legislative authority shall deliver to the board of 4373
education a notice stating its intent to ~~declare improvements to~~ 4374
~~be a public purpose under this section~~ adopt an ordinance making 4375
that declaration. The notice shall ~~describe~~ identify the ~~parcel~~ 4376
~~and the improvements~~ parcels for which improvements are to be 4377
exempted from taxation, provide an estimate of the true value in 4378
money of the improvements, specify the period for which the 4379
improvements would be exempted from taxation and the percentage of 4380
the improvement that would be exempted, and indicate the date on 4381
which the legislative authority intends to adopt the ordinance. 4382
The board of education, by resolution adopted by a majority of the 4383
board, may approve the exemption for the period or for the 4384
exemption percentage specified in the notice, may disapprove the 4385
exemption for the number of years in excess of ten, may disapprove 4386
the exemption for the percentage of the improvement to be exempted 4387
in excess of seventy-five per cent, or both, or may approve the 4388
exemption on the condition that the legislative authority and the 4389
board negotiate an agreement providing for compensation to the 4390
school district equal in value to a percentage of the amount of 4391

As Reported by the Committee of Conference

taxes exempted in the eleventh and subsequent years of the 4392
exemption period or, in the case of exemption percentages in 4393
excess of seventy-five per cent, compensation equal in value to a 4394
percentage of the taxes that would be payable on the portion of 4395
the improvement in excess of seventy-five per cent were that 4396
portion to be subject to taxation. The board of education shall 4397
certify its resolution to the legislative authority not later than 4398
fourteen days prior to the date the legislative authority intends 4399
to adopt the ordinance as indicated in the notice. If the board of 4400
education approves the exemption on the condition that a 4401
compensation agreement be negotiated, the board in its resolution 4402
shall propose a compensation percentage. If the board of education 4403
and the legislative authority negotiate a mutually acceptable 4404
compensation agreement, the ordinance may declare the improvements 4405
a public purpose for the number of years specified in the 4406
ordinance or, in the case of exemption percentages in excess of 4407
seventy-five per cent, for the exemption percentage specified in 4408
the ordinance. In either case, if the board and the legislative 4409
authority fail to negotiate a mutually acceptable compensation 4410
agreement, the ordinance may declare the improvements a public 4411
purpose for not more than ten years, but shall not exempt more 4412
than seventy-five per cent of the improvements from taxation, or, 4413
in the case of an ordinance adopted under division (B) of this 4414
section, not more than the estimated percentage of the incremental 4415
demand as otherwise permitted under prescribed by division (B)(1) 4416
of this section, whichever is if that percentage is less than 4417
seventy-five per cent. If the board fails to certify a resolution 4418
to the legislative authority within the time prescribed by this 4419
division, the legislative authority thereupon may adopt the 4420
ordinance and may declare the improvements a public purpose for up 4421
to thirty years, or, in the case of exemption percentages proposed 4422
in excess of seventy-five per cent, for the exemption percentage 4423
specified in the ordinance. The legislative authority may adopt 4424

As Reported by the Committee of Conference

the ordinance at any time after the board of education certifies 4425
its resolution approving the exemption to the legislative 4426
authority, or, if the board approves the exemption on the 4427
condition that a mutually acceptable compensation agreement be 4428
negotiated, at any time after the compensation agreement is agreed 4429
to by the board and the legislative authority.

(3) If a board of education has adopted a resolution waiving 4430
its right to approve exemptions from taxation and the resolution 4431
remains in effect, approval of exemptions by the board is not 4432
required under this division. If a board of education has adopted 4433
a resolution allowing a legislative authority to deliver the 4434
notice required under this division fewer than forty-five business 4435
days prior to the legislative authority's adoption of the 4436
ordinance, the legislative authority shall deliver the notice to 4437
the board not later than the number of days prior to such adoption 4438
as prescribed by the board in its resolution. If a board of 4439
education adopts a resolution waiving its right to approve 4440
agreements or shortening the notification period, the board shall 4441
certify a copy of the resolution to the legislative authority. If 4442
the board of education rescinds such a resolution, it shall 4443
certify notice of the rescission to the legislative authority. 4444

(4) If the legislative authority is not required by division 4445
~~(B)~~(D)(1), (2), or (3) of this section to notify the board of 4446
education of the legislative authority's intent to declare 4447
improvements to be a public purpose, the legislative authority 4448
shall comply with the notice requirements imposed under section 4449
5709.83 of the Revised Code, unless the board has adopted a 4450
resolution under that section waiving its right to receive such a 4451
notice. 4452

~~(C) The~~ (E) An exemption from taxation granted under this 4453
section commences on with the tax year in which an improvement 4454
first appears on the tax list and duplicate of real and public 4455

As Reported by the Committee of Conference

utility property and that begins after the effective date of the 4456
ordinance and. Except as otherwise provided in this division, the 4457
exemption ends on the date specified in the ordinance as the date 4458
the improvement ceases to be a public purpose or the incentive 4459
district expires, or ends on the date on which the public 4460
infrastructure improvements and housing renovations are paid in 4461
full from the municipal public improvement tax increment 4462
equivalent fund established under division (A) of section 5709.43 4463
of the Revised Code, whichever occurs first, ~~unless. The exemption~~ 4464
~~of an improvement with respect to a parcel may end on a later~~ 4465
~~date, as specified in the ordinance, if the legislative authority~~ 4466
and the board of education of the city, local, or exempted village 4467
school district within ~~the territory of which the exempted~~ 4468
~~improvement parcel~~ is located have entered into a compensation 4469
agreement under section 5709.82 of the Revised Code with respect 4470
to the improvement or district and the board of education has 4471
approved the term of the exemption under division ~~(B)~~(D)(2) of 4472
this section. ~~If the legislative authority and the board of~~ 4473
~~education have entered into such an agreement, the exemption may~~ 4474
~~end on a date, specified in the ordinance, later than the date on~~ 4475
~~which the improvements are paid in full from the municipal public~~ 4476
~~improvement tax increment equivalent fund, but in no case shall~~ 4477
the improvement be exempted from taxation for more than thirty 4478
years. ~~The exemption~~ Exemptions shall be claimed and allowed in 4479
the same manner as in the case of other real property exemptions. 4480
If an exemption status changes during a year, the procedure for 4481
the apportionment of the taxes for that year is the same as in the 4482
case of other changes in tax exemption status during the year. 4483

~~(D) The ordinance shall designate specific public~~ 4484
~~improvements made, to be made, or in the process of being made by~~ 4485
~~the municipal corporation that directly benefit, or that once made~~ 4486
~~will directly benefit, the parcel. A public improvement directly~~ 4487
~~benefits a tract or parcel of land only if improvements made to~~ 4488

the tract or parcel place direct, additional demand on the public
improvement, or, if the public improvement has not yet been
constructed, will place direct, additional demand on the public
improvement when completed. The service payments provided for in
section 5709.42 of the Revised Code shall be used to finance the
public improvements designated in the ordinance. (F) Additional
municipal financing of the public infrastructure improvements and
housing renovations may be provided by any methods that the
municipal corporation may otherwise use for financing such
improvements. If the municipal corporation issues bonds or notes
to finance the public infrastructure improvements and housing
renovations and pledges money from the municipal public
improvement tax increment equivalent fund to pay the interest on
and principal of the bonds or notes, the bonds or notes are not
subject to Chapter 133. of the Revised Code.

~~(E)~~(G) The municipal corporation, not later than fifteen days
after the adoption of the an ordinance ~~granting a tax exemption~~
under this section, shall submit to the director of development a
copy of the ordinance. On or before the thirty-first day of March
of each year, the municipal corporation shall submit a status
report to the director of development outlining. The report shall
indicate, in the manner prescribed by the director, the progress
of the project during each year that ~~the~~ an exemption remains in
effect, including a summary of the receipts from service payments
in lieu of taxes; expenditures of money from the funds created
under section 5709.43 of the Revised Code; a description of the
public infrastructure improvements and housing renovations
financed with such expenditures; and a quantitative summary of
changes in employment and private investment resulting from each
project.

(H) Nothing in this section shall be construed to prohibit a
legislative authority from declaring to be a public purpose

improvements with respect to more than one parcel.

Sec. 5709.411. (A) As used in this section, "detached 4519
improvement" means an improvement as defined in section 5709.41 of 4520
the Revised Code that satisfies all of the following: 4521

(1) The ordinance declaring the improvement to be a public 4522
purpose was adopted under section 5709.41 of the Revised Code by a 4523
municipal corporation that is a party to a contract creating a 4524
joint economic development district under section 715.70 or 715.71 4525
of the Revised Code. 4526

(2) The improvement relates to a parcel of property located 4527
in territory that is detached by that municipal corporation to a 4528
township that is a party to the same contract creating the joint 4529
economic development district, pursuant to that contract and 4530
section 709.38 of the Revised Code. 4531

(3) The ordinance declaring the improvements to be a public 4532
purpose is adopted prior to the detachment of that territory. 4533

(B) The exemption from taxation for detached improvements 4534
under section 5709.41 of the Revised Code shall continue for the 4535
period prescribed in that section and the ordinance under which 4536
the improvements are declared to be a public purpose, or any 4537
amendments to the ordinance, even if the detachment occurs prior 4538
to the end of that period. 4539

(C)(1) The municipal corporation may require the owner of any 4540
building or structure located on a parcel to which the detached 4541
improvement relates to pay service payments in lieu of taxes under 4542
section 5709.42 of the Revised Code after the territory including 4543
the detached improvement is detached. The service payments shall 4544
be distributed to the municipal corporation as provided in that 4545
section. 4546

(2) The municipal corporation may use the service payments 4547
received under division (C)(1) of this section as prescribed by 4548
section 5709.43 of the Revised Code and the ordinance declaring 4549
the detached improvements to be a public purpose. The legislative 4550
authority of the municipal corporation may amend the ordinance to 4551
permit the service payments to be used to pay the cost of streets, 4552
roads, water lines, sewers, and other public infrastructure 4553
improvements as defined in section 5709.40 of the Revised Code 4554
extending from the municipal corporation to the detached territory 4555
or to the joint economic development district, or located on the 4556
detached territory or in the joint economic development district, 4557
or to pay debt service charges on securities issued by the 4558
municipal corporation to finance those public infrastructure 4559
improvements. 4560

Sec. 5709.43. (A) A municipal corporation that grants a tax 4561
exemption under section 5709.40 of the Revised Code shall 4562
establish a municipal public improvement tax increment equivalent 4563
fund, ~~by ordinance of its legislative authority,~~ into which shall 4564
be deposited service payments in lieu of taxes distributed to the 4565
municipal corporation ~~by the county treasurer as provided in under~~ 4566
section 5709.42 of the Revised Code ~~for improvements exempt from~~ 4567
~~taxation pursuant to an ordinance under section 5709.40 of the~~ 4568
~~Revised Code. If the legislative authority of the municipal~~ 4569
~~corporation has adopted an ordinance under division (C) of section~~ 4570
~~5709.40 of the Revised Code, the municipal corporation shall~~ 4571
~~establish at least one account in that fund with respect to~~ 4572
~~ordinances adopted under division (B) of that section, and one~~ 4573
~~account with respect to each district created in an ordinance~~ 4574
~~adopted under division (C) of that section. If an ordinance~~ 4575
~~adopted under division (C) of section 5709.40 of the Revised Code~~ 4576
~~also authorizes the use of service payments for housing~~ 4577

As Reported by the Committee of Conference

renovations within the district, the municipal corporation shall 4578
establish separate accounts for the service payments designated 4579
for public infrastructure improvements and for the service 4580
payments authorized for the purpose of housing renovations. Money 4581
in an account of the municipal public improvement tax increment 4582
equivalent fund shall be used to finance the ~~specific~~ public 4583
infrastructure improvements designated in, or the housing 4584
renovations authorized by, the ordinance ~~under section 5709.40 of~~ 4585
~~the Revised Code with respect to which the account is established;~~ 4586
in the case of an account established with respect to an ordinance 4587
adopted under division (C) of that section, money in the account 4588
shall be used to finance the public infrastructure improvements 4589
designated, or the housing renovations authorized, for each 4590
district created in the ordinance. Money in an account shall not 4591
be used to finance or support housing renovations that take place 4592
after the district has expired. The municipal corporation also may 4593
deposit into ~~the municipal public improvement tax increment~~ 4594
~~equivalent fund~~ any of those accounts municipal income tax revenue 4595
that has been ~~dedicated~~ designated by ordinance to finance the 4596
public infrastructure improvements ~~as designated in the ordinance~~ 4597
and housing renovations. 4598

(B) A municipal corporation may establish an urban 4599
redevelopment tax increment equivalent fund, by resolution or 4600
ordinance of its legislative authority, into which shall be 4601
deposited service payments in lieu of taxes distributed to the 4602
municipal corporation by the county treasurer as provided in 4603
section 5709.42 of the Revised Code for improvements exempt from 4604
taxation pursuant to an ordinance under section 5709.41 of the 4605
Revised Code. Moneys deposited in the urban redevelopment tax 4606
increment equivalent fund shall be used for such purposes as are 4607
authorized in the resolution or ordinance establishing the fund. 4608
The municipal corporation also may deposit into the urban 4609
redevelopment tax increment equivalent fund municipal income tax 4610

revenue that has been dedicated to fund any of the purposes for
which the fund is established.

(C) A municipal corporation also may distribute money in the
municipal public improvement tax increment equivalent fund or the
urban redevelopment tax increment equivalent fund to any school
district in which the exempt property is located in an amount not
to exceed the amount of real property taxes that such school
district would have received from the improvement if it were not
exempt from taxation or use money in either or both funds to
finance specific public improvements benefiting the school
district. The resolution or ordinance establishing the fund shall
set forth the percentage of such maximum amount that will be
distributed to any affected school district or used to finance
specific public improvements benefiting the school district.

(D) Any incidental surplus remaining in the municipal public
improvement tax increment equivalent fund or an account of that
fund, or in the urban redevelopment tax increment equivalent fund,
upon ~~its~~ dissolution of the account or fund shall be transferred
to the general fund of the municipal corporation.

Sec. 5709.73. (A) As used in this section and section 5709.74
of the Revised Code:

(1) "Business day" means a day of the week excluding
Saturday, Sunday, and a legal holiday as defined in section 1.14
of the Revised Code.

(2) "Further improvements" or "improvements" means the
increase in the true value of ~~the~~ a parcel of real property ~~in the~~
~~unincorporated territory of the township that would first appear~~
~~on the tax list and duplicate of real and public utility property~~
after the effective date of a resolution adopted under ~~division~~
~~(B)(1) of this section were it not for the exemption granted by~~
~~that resolution.~~ "Further improvements" does For purposes of

division (B) of this section, "improvements" do not include any 4642
property used or to be used for residential purposes. 4643

(3) "Housing renovation" means a project carried out for 4644
residential purposes. 4645

(4) "Incentive district" has the same meaning as in section 4646
5709.40 of the Revised Code, except that a blighted area is in the 4647
unincorporated area of a township. 4648

(5) "Project" and "public infrastructure improvement" have 4649
the same meanings as in section 5709.40 of the Revised Code. 4650

(B)(1) A board of township trustees may, by unanimous vote, 4651
adopt a resolution that declares to be a public purpose any public 4652
infrastructure improvements made that are necessary for the 4653
development of certain parcels of land located in the 4654
unincorporated area of the township. Except as otherwise provided 4655
in division ~~(B)(2) or (3)~~(D) of this section, the resolution may 4656
exempt from real property taxation not more than seventy-five per 4657
cent of further improvements to a parcel of land which directly 4658
benefits from such public infrastructure improvements; the 4659
percentage exempted shall not, except as otherwise provided in 4660
division ~~(B)(2) or (3)~~(D) of this section, exceed the estimated 4661
percentage of the incremental demand placed on the public 4662
infrastructure improvements that is directly attributable to the 4663
exempted improvement. A For the purposes of this division, a 4664
public infrastructure improvement directly benefits a ~~tract or~~ 4665
parcel of land only if ~~further improvements made to the tract or~~ 4666
~~parcel place~~ a project on the parcel places direct, additional 4667
demand on the public infrastructure improvement, or, if the public 4668
infrastructure improvement has not yet been constructed, will 4669
place direct, additional demand on the public infrastructure 4670
improvement when completed. The resolution shall specify the 4671
percentage of the further improvements to be exempted. 4672

~~(2)~~(C) A board of township trustees may adopt, by unanimous 4673

vote, a resolution creating an incentive district and declaring 4674
improvements to parcels within the district to be a public purpose 4675
and exempt from taxation as provided in this section. The district 4676
shall be located within the unincorporated area of the township 4677
and shall not include any territory that is included within a 4678
district created under division (B) of section 5709.78 of the 4679
Revised Code. The resolution shall delineate the boundary of the 4680
district and specifically identify each parcel within the 4681
district. A district may not include any parcel that is or has 4682
been exempted from taxation under division (B) of this section or 4683
that is or has been within another district created under this 4684
division. A resolution may create more than one such district, and 4685
more than one resolution may be adopted under this division. 4686

A resolution under this division shall specify the life of 4687
the district and the percentage of the improvements to be exempted 4688
and shall designate the public infrastructure improvements made or 4689
to be made that benefit or serve parcels in the district. 4690

A resolution adopted under this division may authorize the 4691
use of service payments provided for in section 5709.74 of the 4692
Revised Code for the purpose of housing renovations within the 4693
district, provided that the resolution also designates public 4694
infrastructure improvements that benefit or serve the district, 4695
and that a project within the district places real property in use 4696
for commercial or industrial purposes. Service payments may be 4697
used to finance or support loans, deferred loans, and grants to 4698
persons for the purpose of housing renovations within the 4699
district. The resolution shall designate the parcels within the 4700
district that are eligible for housing renovations. The resolution 4701
shall state separately the amount or the percentages of the 4702
expected aggregate service payments that are designated for each 4703
public infrastructure improvement and for the purpose of housing 4704
renovations. 4705

Except with the approval of the board of education of each 4706
city, local, or exempted village school district within the 4707
territory of which the district is or will be located, the life of 4708
a district shall not exceed ten years, and the percentage of 4709
improvements to be exempted shall not exceed seventy-five per 4710
cent. With such approval, the life of a district may be not more 4711
than thirty years, and the percentage of improvements to be 4712
exempted may be not more than one hundred per cent. 4713

Approval of a board of education shall be obtained in the 4714
manner provided in division (D) of this section for exemptions 4715
under division (B) of this section, except that the notice to the 4716
board of education shall delineate the boundaries of the district, 4717
specifically identify each parcel within the district, identify 4718
each anticipated improvement in the district, provide an estimate 4719
of the true value in money of each such improvement, specify the 4720
life of the district and the percentage of improvements that would 4721
be exempted, and indicate the date on which the board of township 4722
trustees intends to adopt the resolution. 4723

A board of township trustees shall not adopt a resolution 4724
under this division after June 30, 2007. 4725

(D) Improvements with respect to a parcel may be exempted 4726
from taxation under division (B) of this section for up to ten 4727
years or, with the approval of the board of education of the city, 4728
local, or exempted village school district within the territory of 4729
which the improvements are or will be parcel is located, for up to 4730
thirty years. The percentage of the improvements exempted from 4731
taxation may, with such approval, exceed seventy-five per cent, 4732
but shall not exceed one hundred per cent. Not later than 4733
forty-five business days prior to adopting a resolution under this 4734
section declaring improvements to be a public purpose, the board 4735
of trustees shall deliver to the board of education a notice 4736
stating its intent to declare improvements to be a public purpose 4737

As Reported by the Committee of Conference

~~under this section adopt a resolution making that declaration.~~ The 4738
notice shall ~~describe~~ identify the ~~parcel and the improvements~~ 4739
parcels for which improvements are to be exempted from taxation, 4740
provide an estimate of the true value in money of the 4741
improvements, specify the period for which the improvements would 4742
be exempted from taxation and the percentage of the improvements 4743
that would be exempted, and indicate the date on which the board 4744
of trustees intends to adopt the resolution. The board of 4745
education, by resolution adopted by a majority of the board, may 4746
approve the exemption for the period or for the exemption 4747
percentage specified in the notice, may disapprove the exemption 4748
for the number of years in excess of ten, may disapprove the 4749
exemption for the percentage of the improvements to be exempted in 4750
excess of seventy-five per cent, or both, or may approve the 4751
exemption on the condition that the board of trustees and the 4752
board of education negotiate an agreement providing for 4753
compensation to the school district equal in value to a percentage 4754
of the amount of taxes exempted in the eleventh and subsequent 4755
years of the exemption period or, in the case of exemption 4756
percentages in excess of seventy-five per cent, compensation equal 4757
in value to a percentage of the taxes that would be payable on the 4758
portion of the improvements in excess of seventy-five per cent 4759
were that portion to be subject to taxation. The board of 4760
education shall certify its resolution to the board of trustees 4761
not later than fourteen days prior to the date the board of 4762
trustees intends to adopt the resolution as indicated in the 4763
notice. If the board of education approves the exemption on the 4764
condition that a compensation agreement be negotiated, the board 4765
of education in its resolution shall propose a compensation 4766
percentage. If the board of education and the board of trustees 4767
negotiate a mutually acceptable compensation agreement, the 4768
resolution may declare the improvements a public purpose for the 4769
number of years specified in the resolution or, in the case of 4770

As Reported by the Committee of Conference

exemption percentages in excess of seventy-five per cent, for the 4771
exemption percentage specified in the resolution. In either case, 4772
if the board of education and the board of trustees fail to 4773
negotiate a mutually acceptable compensation agreement, the 4774
resolution may declare the improvements a public purpose for not 4775
more than ten years, but shall not exempt more than seventy-five 4776
per cent of the improvements from taxation, or, in the case of a 4777
resolution adopted under division (B) of this section, not more 4778
than the estimated percentage of the incremental demand as 4779
otherwise ~~permitted under prescribed by~~ division (B)(1) of this 4780
~~section, whichever is~~ if that percentage is less than seventy-five 4781
per cent. If the board of education fails to certify a resolution 4782
to the board of trustees within the time prescribed by this 4783
section, the board of trustees thereupon may adopt the resolution 4784
and may declare the improvements a public purpose for up to thirty 4785
years or, in the case of exemption percentages proposed in excess 4786
of seventy-five per cent, for the exemption percentage specified 4787
in the resolution. The board of township trustees may adopt the 4788
resolution at any time after the board of education certifies its 4789
resolution approving the exemption to the board of township 4790
trustees, or, if the board of education approves the exemption on 4791
the condition that a mutually acceptable compensation agreement be 4792
negotiated, at any time after the compensation agreement is agreed 4793
to by the board of education and the board of township trustees.

(3) If a board of education has adopted a resolution waiving 4794
its right to approve exemptions from taxation and the resolution 4795
remains in effect, approval of such exemptions by the board of 4796
education is not required under this division (B)(2) ~~of this~~ 4797
~~section.~~ If a board of education has adopted a resolution allowing 4798
a board of township trustees to deliver the notice required under 4799
this division (B)(2) ~~of this section~~ fewer than forty-five 4800
business days prior to adoption of the resolution by the board of 4801
township trustees, the board of township trustees shall deliver 4802

As Reported by the Committee of Conference

the notice to the board of education not later than the number of 4803
days prior to such adoption as prescribed by the board of 4804
education in its resolution. If a board of education adopts a 4805
resolution waiving its right to approve exemptions or shortening 4806
the notification period, the board of education shall certify a 4807
copy of the resolution to the board of township trustees. If the 4808
board of education rescinds such a resolution, it shall certify 4809
notice of the rescission to the board of township trustees. 4810

4811
(4) If the board of trustees is not required by this division 4812
~~(B)(2) of this section~~ to notify the board of education of the 4813
board of trustees' intent to declare improvements to be a public 4814
purpose, the board of trustees shall comply with the notice 4815
requirements imposed under section 5709.83 of the Revised Code 4816
before taking formal action to adopt the resolution making that 4817
declaration, unless the board of education has adopted a 4818
resolution under that section waiving its right to receive such a 4819
notice. 4820

~~(C) The~~ (E) An exemption from taxation granted under this 4821
section commences on with the tax year in which an improvement 4822
first appears on the tax list and duplicate of real and public 4823
utility property and that begins after the effective date of the 4824
resolution and. Except as otherwise provided in this division, the 4825
exemption ends on the date specified in the resolution as the date 4826
the improvement ceases to be a public purpose or the incentive 4827
district expires, or ends on the date on which ~~such~~ the public 4828
infrastructure improvements and housing renovations are paid in 4829
full from the township public improvement tax increment equivalent 4830
fund established under section 5709.75 of the Revised Code, 4831
whichever occurs first, ~~unless~~. The exemption of an improvement 4832
with respect to a parcel may end on a later date, as specified in 4833
the resolution, if the board of township trustees and the board of 4834

As Reported by the Committee of Conference

education of the city, local, or exempted village school district 4835
within ~~the territory of which the exempted improvement parcel~~ is 4836
located have entered into a compensation agreement under section 4837
5709.82 of the Revised Code with respect to the improvement or 4838
district and the board of education has approved the term of the 4839
exemption under division ~~(B)(2)(D)~~ of this section. ~~If the board~~ 4840
~~of township trustees and the board of education have entered into~~ 4841
~~such an agreement, the exemption may end on a date, specified in~~ 4842
~~the resolution, later than the date on which the improvements are~~ 4843
~~paid in full from the township public improvement tax increment~~ 4844
~~equivalent fund, but in no case shall the improvement be exempted~~ 4845
from taxation for more than thirty years. The board of township 4846
trustees may, by majority vote, adopt a resolution ~~which permits~~ 4847
permitting the township to enter into such agreements as the board 4848
finds necessary or appropriate to provide for the construction or 4849
undertaking of public infrastructure improvements and housing 4850
renovations. Any exemption shall be claimed and allowed in the 4851
same or a similar manner as in the case of other real property 4852
exemptions. If an exemption status changes during a tax year, the 4853
procedure for the apportionment of the taxes for that year is the 4854
same as in the case of other changes in tax exemption status 4855
during the year. 4856

(F) The board of township trustees may issue the notes of the 4857
township to finance all costs pertaining to the construction or 4858
undertaking of public infrastructure improvements and housing 4859
renovations made pursuant to this section. The notes shall be 4860
signed by the board and attested by the signature of the township 4861
clerk, shall bear interest not to exceed the rate provided in 4862
section 9.95 of the Revised Code, and are not subject to Chapter 4863
133. of the Revised Code. The resolution authorizing the issuance 4864
of the notes shall pledge the funds of the township public 4865
improvement tax increment equivalent fund established pursuant to 4866
section 5709.75 of the Revised Code to pay the interest on and 4867

principal of the notes. The notes, which may contain a clause 4868
permitting prepayment at the option of the board, shall be offered 4869
for sale on the open market or given to the vendor or contractor 4870
if no sale is made. 4871

(G) The township, not later than fifteen days after the 4872
adoption of a resolution ~~granting a tax exemption~~ under this 4873
section, shall submit to the director of development a copy of the 4874
resolution. On or before the thirty-first day of March of each 4875
year, the township shall submit a status report to the director of 4876
development ~~outlining. The report shall indicate, in the manner~~ 4877
prescribed by the director, the progress of the project during 4878
each year that the exemption remains in effect, including a 4879
summary of the receipts from service payments in lieu of taxes; 4880
expenditures of money from funds created under section 5709.75 of 4881
the Revised Code; a description of the public infrastructure 4882
improvements and housing renovations financed with such 4883
expenditures; and a quantitative summary of changes in employment 4884
and private investment resulting from each project.

(H) Nothing in this section shall be construed to prohibit a
board of township trustees from declaring to be a public purpose
improvements with respect to more than one parcel.

(I) A board of township trustees that adopted a resolution 4885
under this section prior to July 21, 1994, may amend that
resolution to include any additional public infrastructure
improvement. A board of township trustees that seeks by such an
amendment to utilize money from its township public improvement
tax increment equivalent fund for land acquisition in aid of
industry, commerce, distribution, or research, demolition on
private property, or stormwater and flood remediation projects may
do so provided that the board currently is a party to a
hold-harmless agreement with the board of education of the city,
local, or exempted village school district within the territory of

which are located the parcels that are subject to an exemption.
For the purposes of this division, a "hold-harmless agreement"
means an agreement under which the board of township trustees
agrees to compensate the school district for one hundred per cent
of the tax revenue that the school district would have received
from further improvements to parcels designated in the resolution
were it not for the exemption granted by the resolution.

Sec. 5709.74. A township that has declared an improvement to 4886
be a public purpose under section 5709.73 of the Revised Code may 4887
require the owner of the parcel to make annual service payments in 4888
lieu of taxes to the county treasurer on or before the final dates 4889
for payment of real property taxes. Each payment shall be charged 4890
and collected in the same manner and in the same amount as the 4891
real property taxes that would have been charged and payable 4892
against any improvement made on the parcel if it were not exempt 4893
from taxation. If any reduction in the levies otherwise applicable 4894
to the exempt property is made by the county budget commission 4895
under section 5705.31 of the Revised Code, the amount of the 4896
service payment in lieu of taxes shall be calculated as if a 4897
reduction in levies had not been made. A township shall not 4898
require an owner to make annual service payments in lieu of taxes 4899
pursuant to this section after the date on which the township has 4900
been paid back in full for the public infrastructure improvements 4901
made pursuant to sections 5709.73 to 5709.75 of the Revised Code. 4902

Moneys collected as service payments in lieu of taxes shall 4903
be distributed at the same time and in the same manner as real 4904
property tax payments except that the entire amount so collected 4905
shall be distributed to the township in which the improvement is 4906
located. If a parcel upon which moneys are collected as service 4907
payments in lieu of taxes is annexed to a municipal corporation, 4908
the service payments shall continue to be collected and 4909
distributed to the township in which the parcel was located before 4910

its annexation until the township is paid back in full for the
cost of ~~the any public infrastructure~~ improvements it made on the
parcel. The treasurer shall maintain a record of the service
payments in lieu of taxes made from property in each township.

Nothing in this section or section 5709.73 of the Revised
Code affects the taxes levied against that portion of the value of
any parcel of property that is not exempt from taxation.

Sec. 5709.75. Any township that receives service payments in
lieu of taxes under section 5709.74 of the Revised Code shall
establish a township public improvement tax increment equivalent
fund, ~~by resolution of the board of township trustees,~~ into which
~~those payments~~ shall be deposited ~~such payments distributed to the~~
~~township by the county treasurer as provided in that section.~~ If
the board of township trustees has adopted a resolution under
division (C) of section 5709.73 of the Revised Code, the township
shall establish at least one account in that fund with respect to
resolutions adopted under division (B) of that section, and one
account with respect to each district created by a resolution
adopted under division (C) of that section. If a resolution
adopted under division (C) of section 5709.73 of the Revised Code
also authorizes the use of service payments for housing
renovations within the district, the township shall establish
separate accounts for the service payments designated for public
infrastructure improvements and for the service payments
authorized for the purpose of housing renovations. Moneys
deposited in an account of that fund shall be used by the township
to pay the costs of public infrastructure improvements ~~made~~
~~pursuant to section 5709.73 of the Revised Code~~ designated in or
the housing renovations authorized by the resolution with respect
to which the account is established, including any interest on and
principal of the notes; in the case of an account established with
respect to a resolution adopted under division (C) of that

section, money in the account shall be used to finance the public 4943
infrastructure improvements designated, or the housing renovations 4944
authorized, for each district created in the resolution. Money in 4945
an account shall not be used to finance or support housing 4946
renovations that take place after the district has expired. The 4947
township may also distribute money in ~~the fund~~ such an account to 4948
any school district in which the exempt property is located in an 4949
amount not to exceed the amount of real property taxes that such 4950
school district would have received from the improvement if it 4951
were not exempt from taxation. The resolution establishing the 4952
fund shall set forth the percentage of such maximum amount that 4953
will be distributed to any affected school district. Any 4954
incidental surplus remaining in the township public improvement 4955
tax increment equivalent fund or an account of that fund upon ~~its~~ 4956
dissolution of the account or fund shall be transferred to the 4957
general fund of the township. 4958

Sec. 5709.77. As used in sections 5709.77 to 5709.81 of the 4959
Revised Code: 4960

(A) "Business day" means a day of the week excluding 4961
Saturday, Sunday, and a legal holiday as defined in section 1.14 4962
of the Revised Code. 4963

~~(A)~~(B) "Fund" means to provide for the payment of the debt 4964
service on and the expenses relating to an outstanding obligation 4965
of the county. 4966

(C) "Housing renovation" means a project carried out for 4967
residential purposes. 4968

~~(B)~~(D) "Improvement" means the increase in the true value of 4969
~~any~~ a parcel of real property ~~subsequent to that would first~~ 4970
appear on the tax list and duplicate of real and public utility 4971
property after the effective date of a resolution adopted under 4972
section 5709.78 of the Revised Code were it not for the exemption 4973

granted by that resolution. "Improvement" does not include any 4974
property used or to be used for residential purposes, or a public 4975
infrastructure improvement. For purposes of division (A) of 4976
section 5709.78 of the Revised Code, "improvement" does not 4977
include any property used or to be used for residential purposes. 4978

(E) "Incentive district" has the same meaning as in section 4979
5709.40 of the Revised Code, except that a blighted area is in the 4980
unincorporated territory of a county. 4981

~~(C)~~(F) "Refund" means to fund and retire an outstanding 4982
obligation of the county. 4983

~~(D) "Tract" means a parcel of real property some percentage~~ 4984
~~of the increase in value of which after the effective date of a~~ 4985
~~resolution adopted under section 5709.78 of the Revised Code is~~ 4986
~~exempted from real property taxation under that resolution.~~ 4987

~~(E) "Business day" means a day of the week excluding~~ 4988
~~Saturday, Sunday, and a legal holiday as defined in section 1.14~~ 4989
~~of the Revised Code.~~ 4990

(G) "Project" and "public infrastructure improvement" have 4991
the same meanings as in section 5709.40 of the Revised Code. 4992

Sec. 5709.78. (A)~~(1)~~ A board of county commissioners may, by 4993
resolution, declare improvements to ~~a parcel~~ certain parcels of 4994
real property located in the unincorporated territory of the 4995
county to be a public purpose. Except as otherwise provided in 4996
division ~~(A)(2) or (3)~~(C) of this section, not more than 4997
seventy-five per cent of an improvement thus declared to be a 4998
public purpose may be exempted from real property taxation; the 4999
percentage exempted shall not, except as otherwise provided in 5000
those divisions, exceed the estimated percentage of the 5001
incremental demand placed on the public infrastructure 5002
improvements that is directly attributable to the exempted 5003
improvement. The resolution shall specify the percentage of the 5004

improvement to be exempted. 5005

(2) A resolution adopted under this division shall designate 5006
the specific public infrastructure improvements made, to be made, 5007
or in the process of being made by the county that directly 5008
benefit, or that once made will directly benefit, the parcels for 5009
which improvements are declared to be a public purpose. For the 5010
purposes of this division, a public infrastructure improvement 5011
directly benefits such a parcel only if a project on the parcel 5012
places direct, additional demand on the public infrastructure 5013
improvement or, if the public infrastructure improvement has not 5014
yet been completed, will place direct, additional demand on the 5015
public infrastructure improvement once it is completed. The 5016
service payments provided for in section 5709.79 of the Revised 5017
Code shall be used to finance the public infrastructure 5018
improvements designated in the resolution.

(B) A board of county commissioners may adopt a resolution 5019
creating an incentive district and declaring improvements to 5020
parcels within the district to be a public purpose and exempt from 5021
taxation as provided in this section. The district shall be 5022
located within the unincorporated territory of the county and 5023
shall not include any territory that is included within a district 5024
created under division (C) of section 5709.73 of the Revised Code. 5025
The resolution shall delineate the boundary of the district and 5026
specifically identify each parcel within the district. A district 5027
may not include any parcel that is or has been exempted from 5028
taxation under division (A) of this section or that is or has been 5029
within another district created under this division. A resolution 5030
may create more than one such district, and more than one 5031
resolution may be adopted under this division. 5032

A resolution under this division shall specify the life of 5033
the district and the percentage of the improvements to be exempted 5034
and shall designate the public infrastructure improvements made or 5035

to be made that benefit or serve parcels in the district.

5036

A resolution adopted under this division may authorize the
use of service payments provided for in section 5709.79 of the
Revised Code for the purpose of housing renovations within the
district, provided that the resolution also designates public
infrastructure improvements that benefit or serve the district,
and that a project within the district places real property in use
for commercial or industrial purposes. Service payments may be
used to finance or support loans, deferred loans, and grants to
persons for the purpose of housing renovations within the
district. The resolution shall designate the parcels within the
district that are eligible for housing renovations. The resolution
shall state separately the amount or the percentages of the
expected aggregate service payments that are designated for each
public infrastructure improvement and for the purpose of housing
renovations.

5037

5038

5039

5040

5041

5042

5043

5044

5045

5046

5047

5048

5049

5050

5051

Except with the approval of the board of education of each
city, local, or exempted village school district within the
territory of which the district is or will be located, the life of
a district shall not exceed ten years, and the percentage of
improvements to be exempted shall not exceed seventy-five per
cent. With such approval, the life of a district may be not more
than thirty years, and the percentage of improvements to be
exempted may be not more than one hundred per cent.

5052

5053

5054

5055

5056

5057

5058

5059

Approval of a board of education shall be obtained in the
manner provided in division (C) of this section for exemptions
under division (A) of this section, except that the notice to the
board of education shall delineate the boundaries of the district,
specifically identify each parcel within the district, identify
each anticipated improvement in the district, provide an estimate
of the true value in money of each such improvement, specify the
life of the district and the percentage of improvements that would

5060

5061

5062

5063

5064

5065

5066

5067

be exempted, and indicate the date on which the board of county
commissioners intends to adopt the resolution.

A board of county commissioners shall not adopt a resolution
under this division after June 30, 2007.

(C)(1) Improvements with respect to a parcel may be exempted
from taxation under division (A) of this section for up to ten
years or, with the approval of the board of education of the city,
local, or exempted village school district within ~~the territory of~~
which the ~~improvements are or will be~~ parcel is located, for up to
thirty years. The percentage of the improvements exempted from
taxation may, with such approval, exceed seventy-five per cent,
but shall not exceed one hundred per cent. Not later than
forty-five business days prior to adopting a resolution under this
section declaring improvements to be a public purpose, the board
of county commissioners shall deliver to the board of education a
notice stating its intent to ~~declare improvements to be a public~~
~~purpose under this section~~ adopt a resolution making that
declaration. The notice shall ~~describe~~ identify the ~~parcel and the~~
~~improvements~~ parcels for which improvements are to be exempted
from taxation, provide an estimate of the true value in money of
the improvements, specify the period for which the improvements
would be exempted from taxation and the percentage of the
improvements that would be exempted, and indicate the date on
which the board of county commissioners intends to adopt the
resolution. The board of education, by resolution adopted by a
majority of the board, may approve the exemption for the period or
for the exemption percentage specified in the notice, may
disapprove the exemption for the number of years in excess of ten,
may disapprove the exemption for the percentage of the
improvements to be exempted in excess of seventy-five per cent, or
both, or may approve the exemption on the condition that the board
of county commissioners and the board of education negotiate an

As Reported by the Committee of Conference

agreement providing for compensation to the school district equal 5100
in value to a percentage of the amount of taxes exempted in the 5101
eleventh and subsequent years of the exemption period or, in the 5102
case of exemption percentages in excess of seventy-five per cent, 5103
compensation equal in value to a percentage of the taxes that 5104
would be payable on the portion of the improvements in excess of 5105
seventy-five per cent were that portion to be subject to taxation. 5106
The board of education shall certify its resolution to the board 5107
of county commissioners not later than fourteen days prior to the 5108
date the board of county commissioners intends to adopt its 5109
resolution as indicated in the notice. If the board of education 5110
approves the exemption on the condition that a compensation 5111
agreement be negotiated, the board of education in its resolution 5112
shall propose a compensation percentage. If the board of education 5113
and the board of county commissioners negotiate a mutually 5114
acceptable compensation agreement, the resolution of the board of 5115
county commissioners may declare the improvements a public purpose 5116
for the number of years specified in that resolution or, in the 5117
case of exemption percentages in excess of seventy-five per cent, 5118
for the exemption percentage specified in the resolution. In 5119
either case, if the board of education and the board of county 5120
commissioners fail to negotiate a mutually acceptable compensation 5121
agreement, the resolution may declare the improvements a public 5122
purpose for not more than ten years, but shall not exempt more 5123
than seventy-five per cent of the improvements from taxation, or, 5124
in the case of a resolution adopted under division (A) of this 5125
section, not more than the estimated percentage of the incremental 5126
demand as otherwise permitted under prescribed by division (A) ~~(1)~~ 5127
of this section, ~~whichever~~ if that percentage is less than 5128
seventy-five per cent. If the board of education fails to certify 5129
a resolution to the board of county commissioners within the time 5130
prescribed by this section, the board of county commissioners 5131
thereupon may adopt the resolution and may declare the 5132

improvements a public purpose for up to thirty years or, in the 5133
case of exemption percentages proposed in excess of seventy-five 5134
per cent, for the exemption percentage specified in the 5135
resolution. The board of county commissioners may adopt the 5136
resolution at any time after the board of education certifies its 5137
resolution approving the exemption to the board of county 5138
commissioners, or, if the board of education approves the 5139
exemption on the condition that a mutually acceptable compensation 5140
agreement be negotiated, at any time after the compensation 5141
agreement is agreed to by the board of education and the board of 5142
county commissioners.

~~+3)+(2)~~ If a board of education has adopted a resolution 5143
waiving its right to approve exemptions from taxation and the 5144
resolution remains in effect, approval of such exemptions by the 5145
board of education is not required under division ~~(A)+(2)+(C)(1)~~ of 5146
this section. If a board of education has adopted a resolution 5147
allowing a board of county commissioners to deliver the notice 5148
required under division ~~(B)+(2)+(C)(1)~~ of this section fewer than 5149
forty-five business days prior to approval of the resolution by 5150
the board of county commissioners, the board of county 5151
commissioners shall deliver the notice to the board of education 5152
not later than the number of days prior to such approval as 5153
prescribed by the board of education in its resolution. If a board 5154
of education adopts a resolution waiving its right to approve 5155
exemptions or shortening the notification period, the board of 5156
education shall certify a copy of the resolution to the board of 5157
county commissioners. If the board of education rescinds such a 5158
resolution, it shall certify notice of the rescission to the board 5159
of county commissioners. 5160

~~(B)~~ The (D) An exemption from taxation granted under this 5161
section commences on with the tax year in which an improvement 5162
first appears on the tax list and duplicate of real and public 5163

As Reported by the Committee of Conference

utility property and that begins after the effective date of the 5164
resolution and. Except as otherwise provided in this division, the 5165
exemption ends on the date specified in the resolution as the date 5166
the improvement ceases to be a public purpose or the incentive 5167
district expires, or ends on the date on which the county can no 5168
longer require annual service payments in lieu of taxes under 5169
section 5709.79 of the Revised Code, whichever occurs first, 5170
unless. The exemption of an improvement with respect to a parcel 5171
may end on a later date, as specified in the resolution, if the 5172
board of commissioners and the board of education of the city, 5173
local, or exempted village school district within the territory of 5174
which the exempted improvement parcel is located have entered into 5175
a compensation agreement under section 5709.82 of the Revised Code 5176
with respect to the improvement or district and the board of 5177
education has approved the term of the exemption under division 5178
(A)(2)(C)(1) of this section. If the board of commissioners and 5179
the board of education have entered into such an agreement, the 5180
exemption may end on a date, specified in the resolution, later 5181
than the date on which the county can no longer require annual 5182
service payments in lieu of taxes, but in no case shall the 5183
improvements improvement be exempted from taxation for more than 5184
thirty years. The exemption Exemptions shall be claimed and 5185
allowed in the same or a similar manner as in the case of other 5186
real property exemptions. If an exemption status changes during a 5187
tax year, the procedure for the apportionment of the taxes for 5188
that year is the same as in the case of other changes in tax 5189
exemption status during the year.

(C) A resolution adopted under this section shall designate 5190
specific public infrastructure improvements made, to be made, or 5191
in the process of being made by the county that directly benefit, 5192
or that once made will directly benefit, the tract. A public 5193
improvement directly benefits a tract or parcel of land only if 5194
improvements made to the tract or parcel place direct, additional 5195

demand on the public improvement, or, if the public improvement
has not yet been constructed, will place direct, additional demand
on the public improvement when completed. The service payments
provided for in section 5709.79 of the Revised Code shall be used
to finance the public infrastructure improvements designated in
the resolution. Additional county financing of the public
infrastructure improvements may be provided by any methods that
counties are otherwise permitted to use for financing such
improvements.

~~(D)~~(E) If the board of county commissioners is not required
by ~~division (A)(2)~~ of this section to notify the board of
education of the board of county commissioners' intent to declare
improvements to be a public purpose, the board of county
commissioners shall comply with the notice requirements imposed
under section 5709.83 of the Revised Code before taking formal
action to adopt the resolution making that declaration, unless the
board of education has adopted a resolution under that section
waiving its right to receive such a notice.

~~(E)~~(F) The county, not later than fifteen days after the
adoption of a resolution ~~granting a tax exemption~~ under this
section, shall submit to the director of development a copy of the
resolution. On or before the thirty-first day of March of each
year, the county shall submit a status report to the director of
development outlining. The report shall indicate, in the manner
prescribed by the director, the progress of the project during
each year that ~~the~~ an exemption remains in effect, including a
summary of the receipts from service payments in lieu of taxes;
expenditures of money from funds created under section 5709.75 of
the Revised Code; a description of the public infrastructure
improvements and housing renovations financed with such
expenditures; and a quantitative summary of changes in employment
and private investment resulting from each project.

(G) Nothing in this section shall be construed to prohibit a board of county commissioners from declaring to be a public purpose improvements with respect to more than one parcel.

Sec. 5709.79. A board of county commissioners that adopts a resolution under section 5709.78 of the Revised Code shall in the resolution require that the owner of the improvement make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payment of real property taxes. Each such payment shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the improvement if its value were not exempt from taxation. If any reduction in the levies otherwise applicable to the improvement is made by the county budget commission under section 5705.31 of the Revised Code, the amount of the service payment in lieu of taxes shall be calculated as if the reduction in levies had not been made.

The county shall not require the owner to make annual service payments in lieu of taxes pursuant to this section after the date on which one of the following occurs:

(A) If bonds or notes were not issued under section 307.082 or 5709.81 of the Revised Code for any public infrastructure improvements benefiting the ~~tract~~ parcel on which the improvement is located, or for any housing renovations within an incentive district, and if service payments were not pledged pursuant to division (B) of section 5709.81 of the Revised Code, the date the county has collected sufficient money in the applicable account of the redevelopment tax equivalent fund to pay the cost of constructing or repairing the public infrastructure improvements designated in, or the housing renovations authorized by, the resolution adopted under section 5709.78 of the Revised Code;

(B) If service payments were pledged under division (B) of

section 5709.81 of the Revised Code to secure payment of any 5256
obligation issued to finance the public infrastructure improvement 5257
and housing renovations, the date the purposes for which the 5258
payments were pledged are paid in full; 5259

(C) If bonds or notes were issued under section 307.082 or 5260
5709.81 of the Revised Code, the date the interest on and 5261
principal of such bonds and notes have been paid in full. 5262

Money collected as service payments in lieu of taxes shall be 5263
distributed at the same time and in the same manner as real 5264
property tax payments except that the entire amount so collected 5265
shall be distributed to the county in which the ~~tract~~ parcel is 5266
located. The county treasurer shall maintain a record of the 5267
service payments in lieu of taxes made for each ~~tract~~ parcel. If a 5268
~~tract~~ parcel upon which moneys are collected as service payments 5269
in lieu of taxes is annexed to a municipal corporation, the 5270
service payments shall continue to be collected and distributed to 5271
the county until the date described in division (A), (B), or (C) 5272
of this section. 5273

Nothing in this section or section 5709.78 of the Revised 5274
Code affects the taxes levied against that portion of the value of 5275
any ~~tract~~ parcel that is not exempt from taxation. 5276

Sec. 5709.80. The board of county commissioners of a county 5277
that receives service payments in lieu of taxes under section 5278
5709.79 of the Revised Code shall, ~~by resolution~~, establish a 5279
redevelopment tax equivalent fund into which those payments shall 5280
be deposited ~~service payments distributed to the county by the~~ 5281
~~county treasurer as provided in that section~~. Separate accounts 5282
shall be established in the fund for each resolution adopted by 5283
the board of county commissioners under section 5709.78 of the 5284
Revised Code. If the board of county commissioners has adopted a 5285
resolution under division (B) of that section, the county shall 5286

As Reported by the Committee of Conference

establish an account for each district created in that resolution. 5287
If a resolution adopted under division (B) of section 5709.78 of 5288
the Revised Code also authorizes the use of service payments for 5289
housing renovations within the district, the county shall 5290
establish separate accounts for the service payments designated 5291
for public infrastructure improvements and for the service 5292
payments authorized for the purpose of housing renovations. Moneys 5293
 deposited into each account of the fund shall be used by the 5294
 county to pay the cost of constructing or repairing the public 5295
 infrastructure improvements designated in, or the housing 5296
renovations authorized by, the resolution or district for which 5297
 the account is established, to pay the interest on and principal 5298
 of bonds or notes issued under division (B) of section 307.082 or 5299
 division (A) of section 5709.81 of the Revised Code, or for the 5300
 purposes pledged under division (B) of section 5709.81 of the 5301
 Revised Code. Money in an account shall not be used to finance or 5302
support housing renovations that take place after the district has 5303
expired. The board of county commissioners may also distribute 5304
 money in an account to any school district in which the exempt 5305
 property is located in an amount not to exceed the amount of real 5306
 property taxes that such school district would have received from 5307
 the improvement if it were not exempt from taxation. The 5308
 resolution under which an account is established shall set forth 5309
 the percentage of such maximum amount that will be distributed to 5310
 any affected school district. An account dissolves upon 5311
 fulfillment of the purposes for which money in the account ~~can~~ may 5312
 be used. An incidental surplus remaining in an account upon its 5313
 dissolution shall be transferred to the general fund of the 5314
 county. 5315

Sec. 5709.81. (A) Upon determination by the board of county 5316
 commissioners that such an issuance will be in the county's best 5317
 interest, the board may, in the resolution adopted under section 5318

5709.78 of the Revised Code, authorize the issuance of revenue 5319
bonds or notes to refund any general obligation bonds or notes, 5320
any mortgage revenue bonds or notes, or any revenue bonds issued 5321
prior to the effective date of the resolution to finance any 5322
public infrastructure improvement designated in, or the housing 5323
renovations authorized by, the resolution ~~as directly benefiting~~ 5324
~~the tract of land that is the subject of the resolution. A public~~ 5325
~~infrastructure improvement directly benefits a tract of land only~~ 5326
~~if improvements made to the tract place direct, additional demand~~ 5327
~~on the public infrastructure improvement, or, if the public~~ 5328
~~infrastructure improvement has not yet been constructed, will~~ 5329
~~place direct, additional demand on the public infrastructure~~ 5330
~~improvement when completed.~~ 5331

The resolution shall pledge only the funds of the account of 5332
the county redevelopment tax equivalent fund established for such 5333
public infrastructure improvements and housing renovations, to pay 5334
the interest on and principal of the bonds or notes issued 5335
pursuant to the resolution. The resolution shall specify the 5336
maturity date or dates, the interest payable in accordance with 5337
section 9.95 of the Revised Code, and such other terms to be 5338
included in the bonds or notes as are necessary for their 5339
issuance. The bonds and notes are not subject to Chapter 133. of 5340
the Revised Code. 5341

Any bond or note issued under this division shall be deemed 5342
to be issued for the same purpose as the bond or note that it is 5343
being issued to refund. The proceeds of any bond or note issued 5344
under this division shall be used as determined by the board of 5345
county commissioners to pay the principal amount of the bond or 5346
note being refunded, any redemption premium, and any interest to 5347
redemption or maturity, and any expenses related to the 5348
outstanding obligations considered necessary by the board of 5349
county commissioners for the issuance of the bond or note. 5350

Any bond or note issued to refund any other bond or note 5351
under this division may be issued whether or not such refunded 5352
bond or note was issued subject to call or redemption prior to 5353
maturity. 5354

The authority granted by this division is in addition to and 5355
an alternative for, but not a limitation upon, other 5356
authorizations granted by or pursuant to law or the constitution 5357
for the same or similar purposes. 5358

(B) In lieu of issuing bonds or notes under division (A) of 5359
this section, the board of county commissioners may, in a 5360
resolution adopted under section 5709.78 of the Revised Code, 5361
pledge the service payments collected under section 5709.79 of the 5362
Revised Code to secure payment of any obligation of the county 5363
issued to finance any public infrastructure improvements 5364
designated in the resolution ~~as directly benefiting the tract of~~ 5365
~~land for which the service payments are paid.~~ 5366

Sec. 5725.14. (A) As used in this section and section 5725.15 8
of the Revised Code: 9

(1) "Billing address" of a customer means one of the 10
following: 11

(a) The customer's address as set forth in any notice, 12
statement, bill, or similar acknowledgment shall be presumed to be 13
the address where the customer is located with respect to the 14
transaction for which the dealer issued the notice, statement, 15
bill, or acknowledgment. 16

(b) If the dealer issues any notice, statement, bill, or 17
similar acknowledgment electronically to an address other than a 18
street address or post office box address or if the dealer does 19
not issue such a notice, statement, bill, or acknowledgment, the 20
customer's street address as set forth in the records of the 21

dealer at the time of the transaction shall be presumed to be the
address where the customer is located.

(2) "Commissions" includes but is not limited to brokerage
commissions, asset management fees, and similar fees charged in
the regular course of business to a customer for the maintenance
and management of the customer's account.

(3) "Gross receipts" means one of the following:

(a) In the case of a dealer in intangibles principally
engaged in the business of lending money or discounting loans, the
aggregate amount of loans effected or discounted;

(b) In the case of a dealer in intangibles principally
engaged in the business of selling or buying stocks, bonds, or
other similar securities either on the dealer's own account or as
agent for another, the aggregate amount of all commissions
charged.

(B) Each dealer in intangibles shall return to the tax
commissioner between the first and second Mondays of March,
annually, a report exhibiting in detail, and under appropriate
heads, his the dealer's resources and liabilities at the close of
business on the thirty-first day of December next preceding. In
the case of an unincorporated dealer in intangibles, such report
shall also exhibit the amount or value as of the date of
conversion of all property within the year preceding the date of
listing, and on or after the first day of November converted into
bonds or other securities not taxed to the extent such nontaxable
bonds or securities may be shown in his the dealer's resources on
such date, without deduction for indebtedness created in the
purchase of such nontaxable bonds or securities.

If a dealer in intangibles maintains separate business
offices, whether within this state only or within and without this
state, said the report shall also show the gross receipts from

business done at each such office during the year ending on the 53
thirty-first day of December next preceding. 54

~~"Gross receipts" as used in this section and section 5725.15 55
of the Revised Code, means, in the case of a dealer in intangibles 56
principally engaged in the business of lending money or 57
discounting loans, the aggregate amount of loans effected or 58
discounted; in the case of a dealer in intangibles principally 59
engaged in the business of selling or buying stocks, bonds, and 60
other similar securities either on his own account or as agent for 61
another, gross receipts means the aggregate amount of all 62
commissions charged plus one per cent of the aggregate amount of 63
all other receipts. 64~~

~~As used in For the purposes of this section and section 65
5725.15 of the Revised Code, business is considered done at an 66
office when it originates at such office, but the receipts from 67
business originating at one office and consummated at another 68
office shall be divided equitably between such offices. 69~~

~~(C) For the purposes of this section and section 5725.15 of 70
the Revised Code, in the case of a dealer in intangibles 71
principally engaged in the business of selling or buying stocks, 72
bonds, or other similar securities either on the dealer's own 73
account or as agent for another, the dealer's capital, surplus, 74
and undivided profits employed in this state shall bear the same 75
ratio to the dealer's total capital, surplus, and undivided 76
profits employed everywhere as the amount described in division 77
(C)(1) of this section bears to the amount described in division 78
(C)(2) of this section: 79~~

~~(1) The sum of the commissions earned during the year covered 80
by the report from transactions with respect to brokerage accounts 81
owned by customers having billing addresses in this state; 82~~

~~(2) The sum of the commissions earned during that year from 84~~

transactions with respect to brokerage accounts owned by all of
the dealer's customers.

(D) An incorporated dealer in intangibles which owns or
controls fifty-one per cent or more of the common stock of another
incorporated dealer in intangibles may, under uniform regulations
prescribed by the tax commissioner, make a consolidated return for
the purpose of sections 5725.01 to 5725.26, inclusive, of the
Revised Code. In such case the parent corporation making such
return is not required to include in its resources any of the
stocks, securities, or other obligations of its subsidiary
dealers, nor permitted to include in its liabilities any of its
own securities or other obligations belonging to its subsidiaries.

Sec. 5725.24. (A) As used in this section, "qualifying
dealer" means a dealer in intangibles that is a qualifying dealer
in intangibles as defined in section 5733.45 of the Revised Code
or a member of a qualifying controlled group, as defined in
section 5733.04 of the Revised Code, of which an insurance company
also is a member on the first day of January of the year in and
for which the tax imposed by section 5707.03 of the Revised Code
is required to be paid by the dealer.

(B) The taxes levied by ~~sections 5707.03 and~~ section 5725.18
of the Revised Code and collected pursuant to this chapter shall
be paid into the state treasury to the credit of the general
revenue fund. ~~The~~

(C) ~~The~~ taxes levied by section 5707.03 of the Revised Code
~~on deposits and~~ on the value of shares in and capital employed by
dealers in intangibles other than those that are qualifying
dealers shall be for the use of the general revenue fund of the
state and the local government funds of the several counties in
which the taxes originate as provided in ~~divisions (A) and (B) of~~
this ~~section~~ division.

On or before the first day of each month on which there is 116
money in the state treasury for disbursement under this ~~section~~ 117
division, the tax commissioner shall provide for payment to the 118
county treasurer of each county of five-eighths of the amount of 119
the taxes collected ~~under this chapter as follows:~~ 120

~~(A) All of the money received and credited on account of 121
taxes assessed on deposits of offices of financial institutions 122
located in the county, as so shown:~~ 123

~~(B) Five-eighths of the money received and credited on 124
account of shares in and capital employed by dealers in 125
intangibles other than those that are qualifying dealers, 126
representing capital employed in the county, ~~as so shown.~~ 127~~

~~The.~~ The balance of the money received and credited on 128
account of taxes assessed on shares in and capital employed by 129
such dealers in intangibles shall be credited to the general 130
revenue fund. 131

For the purpose of this ~~section~~ division, such taxes are 132
deemed to originate in the counties in which ~~such financial~~ 133
~~institutions and~~ such dealers in intangibles have their offices. 134

Money received into the treasury of a county pursuant to this 135
section shall be credited to the undivided local government fund 136
of the county and shall be distributed by the budget commission as 137
provided by law. 138

(D) All of the taxes levied under section 5707.03 of the 139
Revised Code on the value of the shares in and capital employed by 140
dealers in intangibles that are qualifying dealers shall be paid 141
into the state treasury to the credit of the general revenue fund. 142

Sec. 5725.25. (A) The real estate of a domestic insurance 143
company shall be taxed in the place where it is located, the same 144
as the real estate of other persons is taxed, but the tax provided 145

As Reported by the Committee of Conference

for by sections 5725.01 to 5725.26 of the Revised Code, shall be 146
in lieu of all other taxes on the other property and assets of 147
such domestic insurance company, except as provided in division 148
(B) of this section, and of all other taxes, charges, and excises 149
on such domestic insurance companies, and all other taxes on the 150
stockholders, members, or policyholders of such company by reason 151
of their stock or other interest in such insurance company, except 152
as to annuities or the right to receive the proceeds of a policy 153
payable after its maturity in installments, or left with the 154
company at interest. Sections 5725.01 to 5725.26 of the Revised 155
Code do not assess any tax on any foreign insurance company or 156
affect any tax on a foreign insurance company under any laws of 157
this state. 158

(B) Tangible personal property taxable under Chapter 5711. of 159
the Revised Code shall be subject to taxation if it is owned by a 160
domestic insurance company and leased or held for the purpose of 161
leasing to a person other than an insurance company for use in 162
business. 163

(C) For reports required to be filed under section 5725.14 of 164
the Revised Code in 2003 and thereafter, nothing in this section 165
shall be construed to exempt the property of any dealer in 166
intangibles under section 5725.13 of the Revised Code from the tax 167
imposed under section 5707.03 of the Revised Code. 168

Sec. 5725.26. The real estate of a financial institution or 169
dealer in intangibles shall be taxed in the place where it is 170
located, the same as the real estate of persons is taxed, but the 171
taxes provided for in Chapters 5725. and 5733. of the Revised 172
Code, shall be in lieu of all other taxes on the other property 173
and assets of such institution or dealer, except personal property 174
taxable under Chapter 5711. of the Revised Code and leased, or 175
held for the purpose of leasing, to others if the owner or lessor 176
of the property acquired it for the sole purpose of leasing it to 177

others. 178

For reports required to be filed under section 5725.14 of the 179
Revised Code in 2003 and thereafter, nothing in this section shall 180
be construed to exempt the property of any dealer in intangibles 181
under section 5725.13 of the Revised Code from the tax imposed 182
under section 5707.03 of the Revised Code. 183

Sec. 5733.056. (A) As used in this section: 184

(1) "Billing address" means the address where any notice, 185
statement, or bill relating to a customer's account is mailed, as 186
indicated in the books and records of the taxpayer on the first 187
day of the taxable year or on such later date in the taxable year 188
when the customer relationship began. 189

(2) "Borrower or credit card holder located in this state" 190
means: 191

(a) A borrower, other than a credit card holder, that is 192
engaged in a trade or business and maintains its commercial 193
domicile in this state; or 194

(b) A borrower that is not engaged in a trade or business, or 195
a credit card holder, whose billing address is in this state. 196

(3) "Branch" means a "domestic branch" as defined in section 197
3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 198
1813(o), as amended. 199

(4) "Compensation" means wages, salaries, commissions, and 200
any other form of remuneration paid to employees for personal 201
services that are included in such employee's gross income under 202
the Internal Revenue Code. In the case of employees not subject to 203
the Internal Revenue Code, such as those employed in foreign 204
countries, the determination of whether such payments would 205
constitute gross income to such employees under the Internal 206
Revenue Code shall be made as though such employees were subject 207

to the Internal Revenue Code.	208
(5) "Credit card" means a credit, travel, or entertainment card.	209 210
(6) "Credit card issuer's reimbursement fee" means the fee a taxpayer receives from a merchant's bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services to the credit card.	211 212 213 214
(7) "Deposits" has the meaning given in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), as amended.	215 216 217
(8) "Employee" means, with respect to a particular taxpayer, any individual who under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.	218 219 220 221
(9) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property. "Gross rents" includes:	222 223 224
(a) Any amount payable for the use or possession of real property or tangible personal property whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;	225 226 227 228
(b) Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and	229 230 231 232
(c) A proportionate part of the cost of any improvement to real property made by or on behalf of the taxpayer which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the	233 234 235 236 237

taxable income base for the taxable year. However, where a
building is erected on leased land, by or on behalf of the
taxpayer, the value of the land is determined by multiplying the
gross rent by eight, and the value of the building is determined
in the same manner as if owned by the taxpayer.

(d) The following are not included in the term "gross rents":

(i) Reasonable amounts payable as separate charges for water
and electric service furnished by the lessor;

(ii) Reasonable amounts payable as service charges for
janitorial services furnished by the lessor;

(iii) Reasonable amounts payable for storage, provided such
amounts are payable for space not designated and not under the
control of the taxpayer; and

(iv) That portion of any rental payment which is applicable
to the space subleased from the taxpayer and not used by it.

(10) "Loan" means any extension of credit resulting from
direct negotiations between the taxpayer and its customer, or the
purchase, in whole or in part, of such extension of credit from
another. Loans include debt obligations of subsidiaries,
participations, syndications, and leases treated as loans for
federal income tax purposes. "Loan" does not include: properties
treated as loans under section 595 of the Internal Revenue Code;
futures or forward contracts; options; notional principal
contracts such as swaps; credit card receivables, including
purchased credit card relationships; non-interest bearing balances
due from depositor institutions; cash items in the process of
collection; federal funds sold; securities purchased under
agreements to resell; assets held in a trading account;
securities; interests in a real estate mortgage investment conduit
or other mortgage-backed or asset-backed security; and other

similar items.

269

(11) "Loan secured by real property" means that fifty per cent or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

270

271

272

273

274

(12) "Merchant discount" means the fee, or negotiated discount, charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

275

276

277

278

(13) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

279

280

281

282

283

284

(14) "Principal base of operations" with respect to transportation property means the place of more or less permanent nature from which the property is regularly directed or controlled. With respect to an employee, the "principal base of operations" means the place of more or less permanent nature from which the employee regularly (a) starts work and to which the employee customarily returns in order to receive instructions from the employer or (b) communicates with the employee's customers or other persons or (c) performs any other functions necessary to the exercise of the trade or profession at some other point or points.

285

286

287

288

289

290

291

292

293

294

(15) "Qualified institution" means a financial institution that on or after June 1, 1997:

295

296

(a)(i) Has consummated one or more approved transactions with insured banks with different home states that would qualify under section 102 of the "Riegle-Neal Interstate Banking and Branching

297

298

299

Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338; 300
301

(ii) Is a federal savings association or federal savings bank 302
that has consummated one or more interstate acquisitions that 303
result in a financial institution that has branches in more than 304
one state; or 305

(iii) Has consummated one or more approved interstate 306
acquisitions under authority of Title XI of the Revised Code that 307
result in a financial institution that has branches in more than 308
one state; and 309

(b) Has at least ~~ten~~ nine per cent of its deposits in this 310
state as of the last day of June prior to the beginning of the tax 311
year. 312

(16) "Real property owned" and "tangible personal property 313
owned" mean real and tangible personal property, respectively, on 314
which the taxpayer may claim depreciation for federal income tax 315
purposes, or to which the taxpayer holds legal title and on which 316
no other person may claim depreciation for federal income tax 317
purposes, or could claim depreciation if subject to federal income 318
tax. Real and tangible personal property do not include coin, 319
currency, or property acquired in lieu of or pursuant to a 320
foreclosure. 321

(17) "Regular place of business" means an office at which the 322
taxpayer carries on its business in a regular and systematic 323
manner and which is continuously maintained, occupied, and used by 324
employees of the taxpayer. 325

(18) "State" means a state of the United States, the District 326
of Columbia, the commonwealth of Puerto Rico, or any territory or 327
possession of the United States. 328

(19) "Syndication" means an extension of credit in which two 329
or more persons fund and each person is at risk only up to a 330

specified percentage of the total extension of credit or up to a 331
specified dollar amount. 332

(20) "Transportation property" means vehicles and vessels 333
capable of moving under their own power, such as aircraft, trains, 334
water vessels and motor vehicles, as well as any equipment or 335
containers attached to such property, such as rolling stock, 336
barges, trailers, or the like. 337

(B) The annual financial institution report determines the 338
value of the issued and outstanding shares of stock of the 339
taxpayer, and is the base or measure of the franchise tax 340
liability. Such determination shall be made as of the date shown 341
by the report to have been the beginning of the financial 342
institution's annual accounting period that includes the first day 343
of January of the tax year. For purposes of this section, division 344
(A) of section 5733.05, and division (D) of section 5733.06 of the 345
Revised Code, the value of the issued and outstanding shares of 346
stock of the financial institution shall include the total value, 347
as shown by the books of the financial institution, of its 348
capital, surplus, whether earned or unearned, undivided profits, 349
and reserves, but exclusive of: 350

(1) Reserves for accounts receivable, depreciation, 351
depletion, and any other valuation reserves with respect to 352
specific assets; 353

(2) Taxes due and payable during the year for which such 354
report was made; 355

(3) Voting stock and participation certificates in 356
corporations chartered pursuant to the "Farm Credit Act of 1971," 357
85 Stat. 597, 12 U.S.C. 2091, as amended; 358

(4) Good will, appreciation, and abandoned property as set up 359
in the annual report of the financial institution, provided a 360
certified balance sheet of the company is made available upon the 361

request of the tax commissioner. Such balance sheet shall not be a 362
part of the public records, but shall be a confidential report for 363
use of the tax commissioner only. 364

(5) A portion of the value of the issued and outstanding 365
shares of stock of such financial institution equal to the amount 366
obtained by multiplying such value by the quotient obtained by: 367

(a) Dividing (1) the amount of the financial institution's 368
assets, as shown on its books, represented by investments in the 369
capital stock and indebtedness of public utilities of which at 370
least eighty per cent of the utility's issued and outstanding 371
common stock is owned by the financial institution by (2) the 372
total assets of such financial institution as shown on its books; 373

(b) Dividing (1) the amount of the financial institution's 374
assets, as shown on its books, represented by investments in the 375
capital stock and indebtedness of insurance companies of which at 376
least eighty per cent of the insurance company's issued and 377
outstanding common stock is owned by the financial institution by 378
(2) the total assets of such financial institution as shown on its 379
books; 380

(c) Dividing (1) the amount of the financial institution's 381
assets, as shown on its books, represented by investments in the 382
capital stock and indebtedness of other financial institutions of 383
which at least twenty-five per cent of the other financial 384
institution's issued and outstanding common stock is owned by the 385
financial institution by (2) the total assets of the financial 386
institution as shown on its books. Division (B)(5)(c) of this 387
section applies only with respect to such other financial 388
institutions that for the tax year immediately following the 389
taxpayer's taxable year will pay the tax imposed by division (D) 390
of section 5733.06 of the Revised Code. 391

(6) Land that has been determined pursuant to section 5713.31 392

of the Revised Code by the county auditor of the county in which 393
the land is located to be devoted exclusively to agricultural use 394
as of the first Monday of June in the financial institution's 395
taxable year. 396

(7) Property within this state used exclusively during the 397
taxable year for qualified research as defined in section 5733.05 398
of the Revised Code. 399

(C) The base upon which the tax levied under division (D) of 400
section 5733.06 of the Revised Code shall be computed by 401
multiplying the value of a financial institution's issued and 402
outstanding shares of stock as determined in division (B) of this 403
section by a fraction. The numerator of the fraction is the sum of 404
the following: the property factor multiplied by fifteen, the 405
payroll factor multiplied by fifteen, and the sales factor 406
multiplied by seventy. The denominator of the fraction is one 407
hundred, provided that the denominator shall be reduced by fifteen 408
if the property factor has a denominator of zero, by fifteen if 409
the payroll factor has a denominator of zero, and by seventy if 410
the sales factor has a denominator of zero. 411

(D) A financial institution shall calculate the property 412
factor as follows: 413

(1) The property factor is a fraction, the numerator of which 414
is the average value of real property and tangible personal 415
property rented to the taxpayer that is located or used within 416
this state during the taxable year, the average value of real and 417
tangible personal property owned by the taxpayer that is located 418
or used within this state during the taxable year, and the average 419
value of the taxpayer's loans and credit card receivables that are 420
located within this state during the taxable year; and the 421
denominator of which is the average value of all such property 422
located or used within and without this state during the taxable 423
year. 424

(2)(a) The value of real property and tangible personal 425
property owned by the taxpayer is the original cost or other basis 426
of such property for federal income tax purposes without regard to 427
depletion, depreciation, or amortization. 428

(b) Loans are valued at their outstanding principal balance, 429
without regard to any reserve for bad debts. If a loan is 430
charged-off in whole or in part for federal income tax purposes, 431
the portion of the loan charged-off is not outstanding. A 432
specifically allocated reserve established pursuant to financial 433
accounting guidelines which is treated as charged-off for federal 434
income tax purposes shall be treated as charged-off for purposes 435
of this section. 436

(c) Credit card receivables are valued at their outstanding 437
principal balance, without regard to any reserve for bad debts. If 438
a credit card receivable is charged-off in whole or in part for 439
federal income tax purposes, the portion of the receivable 440
charged-off is not outstanding. 441

(3) The average value of property owned by the taxpayer is 442
computed on an annual basis by adding the value of the property on 443
the first day of the taxable year and the value on the last day of 444
the taxable year and dividing the sum by two. If averaging on this 445
basis does not properly reflect average value, the tax 446
commissioner may require averaging on a more frequent basis. The 447
taxpayer may elect to average on a more frequent basis. When 448
averaging on a more frequent basis is required by the tax 449
commissioner or is elected by the taxpayer, the same method of 450
valuation must be used consistently by the taxpayer with respect 451
to property within and without this state and on all subsequent 452
returns unless the taxpayer receives prior permission from the tax 453
commissioner or the tax commissioner requires a different method 454
of determining value. 455

(4)(a) The average value of real property and tangible 456

personal property that the taxpayer has rented from another and is
not treated as property owned by the taxpayer for federal income
tax purposes, shall be determined annually by multiplying the
gross rents payable during the taxable year by eight.

(b) Where the use of the general method described in division
(D)(4)(a) of this section results in inaccurate valuations of
rented property, any other method which properly reflects the
value may be adopted by the tax commissioner or by the taxpayer
when approved in writing by the tax commissioner. Once approved,
such other method of valuation must be used on all subsequent
returns unless the taxpayer receives prior approval from the tax
commissioner or the tax commissioner requires a different method
of valuation.

(5)(a) Except as described in division (D)(5)(b) of this
section, real property and tangible personal property owned by or
rented to the taxpayer is considered to be located within this
state if it is physically located, situated, or used within this
state.

(b) Transportation property is included in the numerator of
the property factor to the extent that the property is used in
this state. The extent an aircraft will be deemed to be used in
this state and the amount of value that is to be included in the
numerator of this state's property factor is determined by
multiplying the average value of the aircraft by a fraction, the
numerator of which is the number of landings of the aircraft in
this state and the denominator of which is the total number of
landings of the aircraft everywhere. If the extent of the use of
any transportation property within this state cannot be
determined, then the property will be deemed to be used wholly in
the state in which the property has its principal base of
operations. A motor vehicle will be deemed to be used wholly in
the state in which it is registered.

(6)(a)(i) A loan, other than a loan or advance described in 489
division (D)(6)(d) of this section, is considered to be located 490
within this state if it is properly assigned to a regular place of 491
business of the taxpayer within this state. 492

(ii) A loan is properly assigned to the regular place of 493
business with which it has a preponderance of substantive 494
contacts. A loan assigned by the taxpayer to a regular place of 495
business without the state shall be presumed to have been properly 496
assigned if: 497

(I) The taxpayer has assigned, in the regular course of its 498
business, such loan on its records to a regular place of business 499
consistent with federal or state regulatory requirements; 500

(II) Such assignment on its records is based upon substantive 501
contacts of the load to such regular place of business; and 502
503

(III) The taxpayer uses the records reflecting assignment of 504
loans for the filing of all state and local tax returns for which 505
an assignment of loans to a regular place of business is required. 506

(iii) The presumption of proper assignment of a loan provided 507
in division (D)(6)(a)(ii) of this section may be rebutted upon a 508
showing by the tax commissioner, supported by a preponderance of 509
the evidence, that the preponderance of substantive contacts 510
regarding such loan did not occur at the regular place of business 511
to which it was assigned on the taxpayer's records. When such 512
presumption has been rebutted, the loan shall then be located 513
within this state if (1) the taxpayer had a regular place of 514
business within this state at the time the loan was made; and (2) 515
the taxpayer fails to show, by a preponderance of the evidence, 516
that the preponderance of substantive contacts regarding such ~~load~~ 517
loan did not occur within this state. 518

(b) In the case of a loan which is assigned by the taxpayer 520
to a place without this state which is not a regular place of 521
business, it shall be presumed, subject to rebuttal by the 522
taxpayer on a showing supported by the preponderance of evidence, 523
that the preponderance of substantive contacts regarding the loan 524
occurred within this state if, at the time the loan was made the 525
taxpayer's commercial domicile was within this state. 526

(c) To determine the state in which the preponderance of 527
substantive contacts relating to a loan have occurred, the facts 528
and circumstances regarding the loan at issue shall be reviewed on 529
a case-by-case basis and consideration shall be given to such 530
activities as the solicitation, investigation, negotiation, 531
approval, and administration of the loan. The terms 532
"solicitation," "investigation," "negotiation," "approval," and 533
"administration" are defined as follows: 534

(i) "Solicitation" is either active or passive. Active 535
solicitation occurs when an employee of the taxpayer initiates the 536
contact with the customer. Such activity is located at the regular 537
place of business which the taxpayer's employee is regularly 538
connected with or working out of, regardless of where the services 539
of such employee were actually performed. Passive solicitation 540
occurs when the customer initiates the contact with the taxpayer. 541
If the customer's initial contact was not at a regular place of 542
business of the taxpayer, the regular place of business, if any, 543
where the passive solicitation occurred is determined by the facts 544
in each case. 545

(ii) "Investigation" is the procedure whereby employees of 546
the taxpayer determine the creditworthiness of the customer as 547
well as the degree of risk involved in making a particular 548
agreement. Such activity is located at the regular place of 549
business which the taxpayer's employees are regularly connected 550
with or working out of, regardless of where the services of such 551

employees were actually performed. 552

(iii) Negotiation is the procedure whereby employees of the 553
taxpayer and its customer determine the terms of the agreement, 554
such as the amount, duration, interest rate, frequency of 555
repayment, currency denomination, and security required. Such 556
activity is located at the regular place of business to which the 557
taxpayer's employees are regularly connected or working from, 558
regardless of where the services of such employees were actually 559
performed. 560

(iv) "Approval" is the procedure whereby employees or the 561
board of directors of the taxpayer make the final determination 562
whether to enter into the agreement. Such activity is located at 563
the regular place of business to which the taxpayer's employees 564
are regularly connected or working from, regardless of where the 565
services of such employees were actually performed. If the board 566
of directors makes the final determination, such activity is 567
located at the commercial domicile of the taxpayer. 568

(v) "Administration" is the process of managing the account. 569
This process includes bookkeeping, collecting the payments, 570
corresponding with the customer, reporting to management regarding 571
the status of the agreement, and proceeding against the borrower 572
or the security interest if the borrower is in default. Such 573
activity is located at the regular place of business that oversees 574
this activity. 575

(d) A loan or advance to a subsidiary corporation at least 576
fifty-one per cent of whose common stock is owned by the financial 577
institution shall be allocated in and out of the state by the 578
application of a ratio whose numerator is the sum of the net book 579
value of the subsidiary's real property owned in this state and 580
the subsidiary's tangible personal property owned in this state 581
and whose denominator is the sum of the subsidiary's real property 582
owned wherever located and the subsidiary's tangible personal 583

property owned wherever located. For purposes of calculating this 584
ratio, the taxpayer shall determine net book value in accordance 585
with generally accepted accounting principles. If the subsidiary 586
corporation owns at least fifty-one per cent of the common stock 587
of another corporation, the ratio shall be calculated by including 588
the other corporation's real property and tangible personal 589
property. The calculation of the ratio applies with respect to all 590
lower-tiered subsidiaries, provided that the immediate parent 591
corporation of the subsidiary owns at least fifty-one per cent of 592
the common stock of that subsidiary. 593

(7) For purposes of determining the location of credit card 594
receivables, credit card receivables shall be treated as loans and 595
shall be subject to division (D)(6) of this section. 596

(8) A loan that has been properly assigned to a state shall, 597
absent any change of material fact, remain assigned to that state 598
for the length of the original term of the loan. Thereafter, the 599
loan may be properly assigned to another state if the loan has a 600
preponderance of substantive contact to a regular place of 601
business there. 602

(E) A financial institution shall calculate the payroll 603
factor as follows: 604

(1) The payroll factor is a fraction, the numerator of which 605
is the total amount paid in this state during the taxable year by 606
the taxpayer for compensation, and the denominator of which is the 607
total compensation paid both within and without this state during 608
the taxable year. 609

(2) Compensation is paid in this state if any one of the 610
following tests, applied consecutively, is met: 611

(a) The employee's services are performed entirely within 612
this state. 613

(b) The employee's services are performed both within and 614

without this state, but the service performed without this state 615
is incidental to the employee's service within this state. The 616
term "incidental" means any service which is temporary or 617
transitory in nature, or which is rendered in connection with an 618
isolated transaction. 619

(c) The employee's services are performed both within and 620
without this state, and: 621

(i) The employee's principal base of operations is within 622
this state; or 623

(ii) There is no principal base of operations in any state in 624
which some part of the services are performed, but the place from 625
which the services are directed or controlled is in this state; or 626
627

(iii) The principal base of operations and the place from 628
which the services are directed or controlled are not in any state 629
in which some part of the service is performed but the employee's 630
residence is in this state. 631

(F) A financial institution shall calculate the sales factor 632
as follows: 633

(1) The sales factor is a fraction, the numerator of which is 634
the receipts of the taxpayer in this state during the taxable year 635
and the denominator of which is the receipts of the taxpayer 636
within and without this state during the taxable year. The method 637
of calculating receipts for purposes of the denominator is the 638
same as the method used in determining receipts for purposes of 639
the numerator. 640

(2) The numerator of the sales factor includes receipts from 641
the lease or rental of real property owned by the taxpayer if the 642
property is located within this state, or receipts from the 643
sublease of real property if the property is located within this 644
state. 645

(3)(a) Except as described in division (F)(3)(b) of this 646
section the numerator of the sales factor includes receipts from 647
the lease or rental of tangible personal property owned by the 648
taxpayer if the property is located within this state when it is 649
first placed in service by the lessee. 650

(b) Receipts from the lease or rental of transportation 651
property owned by the taxpayer are included in the numerator of 652
the sales factor to the extent that the property is used in this 653
state. The extent an aircraft will be deemed to be used in this 654
state and the amount of receipts that is to be included in the 655
numerator of this state's sales factor is determined by 656
multiplying all the receipts from the lease or rental of the 657
aircraft by a fraction, the numerator of which is the number of 658
landings of the aircraft in this state and the denominator of 659
which is the total number of landings of the aircraft. If the 660
extent of the use of any transportation property within this state 661
cannot be determined, then the property will be deemed to be used 662
wholly in the state in which the property has its principal base 663
of operations. A motor vehicle will be deemed to be used wholly in 664
the state in which it is registered. 665

(4)(a) The numerator of the sales factor includes interest 666
and fees or penalties in the nature of interest from loans secured 667
by real property if the property is located within this state. If 668
the property is located both within this state and one or more 669
other states, the receipts described in this paragraph are 670
included in the numerator of the sales factor if more than fifty 671
per cent of the fair market value of the real property is located 672
within this state. If more than fifty per cent of the fair market 673
value of the real property is not located within any one state, 674
then the receipts described in this paragraph shall be included in 675
the numerator of the sales factor if the borrower is located in 676
this state. 677

(b) The determination of whether the real property securing a loan is located within this state shall be made as of the time the original agreement was made and any and all subsequent substitutions of collateral shall be disregarded.

(5) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from loans not secured by real property if the borrower is located in this state.

(6) The numerator of the sales factor includes net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of section 1286 of the Internal Revenue Code.

(a) The amount of net gains, but not less than zero, from the sale of loans secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(b) The amount of net gains, but not less than zero, from the sale of loans not secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(7) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, if the billing address of the card holder is in

this state.

709

(8) The numerator of the sales factor includes net gains, but not less than zero, from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

710

711

712

713

714

715

716

717

(9) The numerator of the sales factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

718

719

720

721

722

723

724

(10) The numerator of the sales factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. Such receipts shall be computed net of any card holder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

725

726

727

728

729

730

(11)(a)(i) The numerator of the sales factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

731

732

733

734

735

736

737

(ii) The numerator of the sales factor includes loan servicing fees derived from loans not secured by real property

738

739

multiplied by a fraction the numerator of which is the amount
included in the numerator of the sales factor pursuant to division
(F)(5) of this section and the denominator of which is the total
amount of interest and fees or penalties in the nature of interest
from loans not secured by real property.

(b) In circumstances in which the taxpayer receives loan
servicing fees for servicing either the secured or the unsecured
loans of another, the numerator of the sales factor shall include
such fees if the borrower is located in this state.

(12) The numerator of the sales factor includes receipts from
services not otherwise apportioned under this section if the
service is performed in this state. If the service is performed
both within and without this state, the numerator of the sales
factor includes receipts from services not otherwise apportioned
under this section, if a greater proportion of the income
producing activity is performed in this state based on cost of
performance.

(13)(a) Interest, dividends, net gains, but not less than
zero, and other income from investment assets and activities and
from trading assets and activities shall be included in the sales
factor. Investment assets and activities and trading assets and
activities include but are not limited to: investment securities;
trading account assets; federal funds; securities purchased and
sold under agreements to resell or repurchase; options; futures
contracts; forward contracts; notional principal contracts such as
swaps; equities; and foreign currency transactions. With respect
to the investment and trading assets and activities described in
divisions (F)(13)(a)(i) and (ii) of this section, the sales factor
shall include the amounts described in such divisions.

(i) The sales factor shall include the amount by which
interest from federal funds sold and securities purchased under
resale agreements exceeds interest expense on federal funds

purchased and securities sold under repurchase agreements. 772

(ii) The sales factor shall include the amount by which 773
interest, dividends, gains, and other income from trading assets 774
and activities, including, but not limited to, assets and 775
activities in the matched book, in the arbitrage book, and foreign 776
currency transactions, exceed amounts paid in lieu of interest, 777
amounts paid in lieu of dividends, and losses from such assets and 778
activities. 779

(b) The numerator of the sales factor includes interest, 780
dividends, net gains, but not less than zero, and other income 781
from investment assets and activities and from trading assets and 782
activities described in division (F)(13)(a) of this section that 783
are attributable to this state. 784

(i) The amount of interest, other than interest described in 785
division (F)(13)(b)(iv) of this section, dividends, other than 786
dividends described in that division, net gains, but not less than 787
zero, and other income from investment assets and activities in 788
the investment account to be attributed to this state and included 789
in the numerator is determined by multiplying all such income from 790
such assets and activities by a fraction, the numerator of which 791
is the average value of such assets which are properly assigned to 792
a regular place of business of the taxpayer within this state and 793
the denominator of which is the average value of all such assets. 794

(ii) The amount of interest from federal funds sold and 795
purchased and from securities purchased under resale agreements 796
and securities sold under repurchase agreements attributable to 797
this state and included in the numerator is determined by 798
multiplying the amount described in division (F)(13)(a)(i) of this 799
section from such funds and such securities by a fraction, the 800
numerator of which is the average value of federal funds sold and 801
securities purchased under agreements to resell which are properly 802
assigned to a regular place of business of the taxpayer within 803

this state and the denominator of which is the average value of 804
all such funds and such securities. 805

(iii) The amount of interest, dividends, gains, and other 806
income from trading assets and activities, including but not 807
limited to assets and activities in the matched book, in the 808
arbitrage book, and foreign currency transaction, but excluding 809
amounts described in division (F)(13)(b)(i) or (ii) of this 810
section, attributable to this state and included in the numerator 811
is determined by multiplying the amount described in division 812
(F)(13)(a)(ii) of this section by a fraction, the numerator of 813
which is the average value of such trading assets which are 814
properly assigned to a regular place of business of the taxpayer 815
within this state and the denominator of which is the average 816
value of all such assets. 817

(iv) The amount of dividends received on the capital stock 818
of, and the amount of interest received from loans and advances 819
to, subsidiary corporations at least fifty-one per cent of whose 820
common stock is owned by the reporting financial institution shall 821
be allocated in and out of this state by the application of a 822
ratio whose numerator is the sum of the net book value of the 823
payor's real property owned in this state and the payor's tangible 824
personal property owned in this state and whose denominator is the 825
sum of the net book value of the payor's real property owned 826
wherever located and the payor's tangible personal property owned 827
wherever located. For purposes of calculating this ratio, the 828
taxpayer shall determine net book value in accordance with 829
generally accepted accounting principles. 830

(v) For purposes of this division, average value shall be 831
determined using the rules for determining the average value of 832
tangible personal property set forth in division (D)(2) and (3) of 833
this section. 834

(c) In lieu of using the method set forth in division 835

(F)(13)(b) of this section, the taxpayer may elect, or the tax commissioner may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in division (F)(13)(c) of this section.

(i) The amount of interest, other than interest described in division (F)(13)(b)(iv) of this section, dividends, other than dividends described in that division, net gains, but not less than zero, and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities which are properly assigned to a regular place of business of the taxpayer within this state, and the denominator of which is the gross income from all such assets and activities.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(i) of this section from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in division (F)(13)(a)(i) or (ii) of this section, attributable to this state and included in the numerator, is determined by multiplying the amount described in division

(F)(13)(a)(ii) of this section by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible personal property owned in this state and whose denominator is the sum of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(d) If the taxpayer elects or is required by the tax commissioner to use the method set forth in division (F)(13)(c) of this section, it shall use this method on all subsequent returns unless the taxpayer receives prior permission from the tax commissioner to use or the tax commissioner requires a different method.

(e) The taxpayer shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one such regular place of

business is in this state and one such regular place of business 900
is outside this state such asset or activity shall be considered 901
to be located at the regular place of business of the taxpayer 902
where the investment or trading policies or guidelines with 903
respect to the asset or activity are established. Unless the 904
taxpayer demonstrates to the contrary, such policies and 905
guidelines shall be presumed to be established at the commercial 906
domicile of the taxpayer. 907

(14) The numerator of the sales factor includes all other 908
receipts if either: 909

(a) The income-producing activity is performed solely in this 910
state; or 911

(b) The income-producing activity is performed both within 912
and without this state and a greater proportion of the 913
income-producing activity is performed within this state than in 914
any other state, based on costs of performance. 915

(G) A qualified institution may calculate the base upon which 916
the fee provided for in division (D) of section 5733.06 of the 917
Revised Code is determined for each ~~of the tax years 1998, 1999,~~ 918
~~2000, 2001, 2002, and 2003~~ year by multiplying the value of its 919
issued and outstanding shares of stock determined under division 920
(B) of this section by a single deposits fraction whose numerator 921
is the deposits assigned to branches in this state and whose 922
denominator is the deposits assigned to branches everywhere. 923
Deposits shall be assigned to branches in the same manner in which 924
the assignment is made for regulatory purposes. If the base 925
calculated under this division is less than the base calculated 926
under division (C) of this section, then the qualifying 927
institution may elect to substitute the base calculated under this 928
division for the base calculated under division (C) of this 929
section. Such election may be made annually for each ~~of the tax~~ 930
~~years 1998, 1999, 2000, 2001, 2002, and 2003~~ year on the corporate 931

report. The election need not accompany the report; rather, the 932
election may accompany a subsequently filed but timely application 933
for refund, a subsequently filed but timely amended report, or a 934
subsequently filed but timely petition for reassessment. The 935
election is not irrevocable and it applies only to the specified 936
tax year. Nothing in this division shall be construed to extend 937
any statute of limitations set forth in this chapter. 938

(H) If the apportionment provisions of this section do not 940
fairly represent the extent of the taxpayer's business activity in 941
this state, the taxpayer may petition for or the tax commissioner 942
may require, in respect to all or any part of the taxpayer's 943
business activity, if reasonable: 944

(1) Separate accounting; 945

(2) The exclusion of any one or more of the factors; 946

(3) The inclusion of one or more additional factors which 947
will fairly represent the taxpayer's business activity in this 948
state; or 949

(4) The employment of any other method to effectuate an 950
equitable allocation and apportionment of the taxpayer's value. 951

Sec. 5733.06. The tax hereby charged each corporation subject 5367
to this chapter shall be the greater of the sum of divisions (A) 5368
and (B) of this section, after the reduction, if any, provided by 5369
division (J) of this section, or division (C) of this section, 5370
after the reduction, if any, provided by division (J) of this 5371
section, except that the tax hereby charged each financial 5372
institution subject to this chapter shall be the amount computed 5373
under division (D) of this section: 5374

(A) Except as set forth in division (F) of this section, five 5375
and one-tenth per cent upon the first fifty thousand dollars of 5376

the value of the taxpayer's issued and outstanding shares of stock 5377
as determined under division (B) of section 5733.05 of the Revised 5378
Code; 5379

(B) Except as set forth in division (F) of this section, 5380
eight and one-half per cent upon the value so determined in excess 5381
of fifty thousand dollars; or 5382

(C)(1) Except as otherwise provided under division (G) of 5383
this section, four mills times that portion of the value of the 5384
issued and outstanding shares of stock as determined under 5385
division (C) of section 5733.05 of the Revised Code. For the 5386
purposes of division (C) of this section, division (C)(2) of 5387
section 5733.065, and division (C) of section 5733.066 of the 5388
Revised Code, the value of the issued and outstanding shares of 5389
stock of an eligible corporation for tax year 2003 through tax 5390
year 2007, or of a qualified holding company, is zero. 5391

(2) As used in division (C) of this section, "eligible 5392
corporation" means a person treated as a corporation for federal 5393
income tax purposes that meets all of the following criteria: 5394

(a) The corporation conducts business for an entire taxable 5395
year as a qualified trade or business as defined by division (C) 5396
of section 122.15 of the Revised Code. 5397

(b) The corporation uses more than fifty per cent of the 5398
corporation's assets, based on net book value, that are located in 5399
Ohio solely to conduct activities that constitute a qualified 5400
trade or business as defined by section 122.15 of the Revised 5401
Code. 5402

(c) The corporation has been formed or organized not more 5403
than three years before the report required to be filed by section 5404
5733.02 of the Revised Code is due, without regard to any 5405
extensions. 5406

(d) The corporation is not a related member, as defined in 5407

section 5733.042 of the Revised Code, at any time during the 5408
taxable year with respect to another person treated as a 5409
corporation for federal income tax purposes. A corporation is not 5410
a related member if during the entire taxable year at least 5411
seventy-five per cent of the corporation's stock is owned directly 5412
or through a pass-through entity by individuals, estates, and 5413
grantor trusts, and the individuals, estates, and grantor trusts 5414
do not directly or indirectly own more than twenty per cent of the 5415
value of another person treated as a corporation for federal 5416
income tax purposes that is conducting a qualified trade or 5417
business. 5418

(D) The tax charged each financial institution subject to 5419
this chapter shall be that portion of the value of the issued and 5420
outstanding shares of stock as determined under division (A) of 5421
section 5733.05 of the Revised Code, multiplied by the following 5422
amounts: 5423

(1) For tax years prior to the 1999 tax year, fifteen mills; 5424

(2) For the 1999 tax year, fourteen mills; 5425

(3) For tax year 2000 and thereafter, thirteen mills. 5426

(E) No tax shall be charged from any corporation that has 5427
been adjudicated bankrupt, or for which a receiver has been 5428
appointed, or that has made a general assignment for the benefit 5429
of creditors, except for the portion of the then current tax year 5430
during which the tax commissioner finds such corporation had the 5431
power to exercise its corporate franchise unimpaired by such 5432
proceedings or act. The minimum payment for all corporations shall 5433
be fifty dollars. 5434

The tax charged to corporations under this chapter for the 5435
privilege of engaging in business in this state, which is an 5436
excise tax levied on the value of the issued and outstanding 5437
shares of stock, shall in no manner be construed as prohibiting or 5438

otherwise limiting the powers of municipal corporations, joint
economic development zones created under section 715.691 of the
Revised Code, and joint economic development districts created
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the
Revised Code in this state to impose an income tax on the income
of such corporations.

(F) If two or more taxpayers satisfy the ownership or control
requirements of division (A) of section 5733.052 of the Revised
Code, each such taxpayer shall substitute "the taxpayer's pro-rata
amount" for "fifty thousand dollars" in divisions (A) and (B) of
this section. For purposes of this division, "the taxpayer's
pro-rata amount" is an amount that, when added to the other such
taxpayers' pro-rata amounts, does not exceed fifty thousand
dollars. For the purpose of making that computation, the
taxpayer's pro-rata amount shall not be less than zero. Nothing in
this division derogates from or eliminates the requirement to make
the alternative computation of tax under division (C) of this
section.

(G) The tax liability of any corporation under division (C)
of this section shall not exceed one hundred fifty thousand
dollars.

(H)(1) For the purposes of division (H) of this section,
"exiting corporation" means a corporation that satisfies all of
the following conditions:

(a) The corporation had nexus with or in this state under the
Constitution of the United States during any portion of a calendar
year;

(b) The corporation was not a corporation described in
division (A) of section 5733.01 of the Revised Code on the first
day of January immediately following that calendar year;

(c) The corporation was not a financial institution on the

first day of January immediately following that calendar year; 5470

(d) If the corporation was a transferor as defined in section 5471
5733.053 of the Revised Code, the corporation's transferee was not 5472
required to add to the transferee's net income the income of the 5473
transferor pursuant to division (B) of that section; 5474

(e) During any portion of that calendar year, or any portion 5475
of the immediately preceding calendar year, the corporation had 5476
net income that was not included in a report filed by the 5477
corporation or its transferee pursuant to section 5733.02, 5478
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 5479

(f) The corporation would have been subject to the tax 5480
computed under divisions (A), (B), (C), (F), and (G) of this 5481
section if the corporation is assumed to be a corporation 5482
described in division (A) of section 5733.01 of the Revised Code 5483
on the first day of January immediately following the calendar 5484
year to which division (H)(1)(a) of this section refers. 5485

(2) For the purposes of division (H) of this section, 5486
"unreported net income" means net income that was not previously 5487
included in a report filed pursuant to section 5733.02, 5733.021, 5488
5733.03, 5733.031, or 5733.053 of the Revised Code and that was 5489
realized or recognized during the calendar year to which division 5490
(H)(1) of this section refers or the immediately preceding 5491
calendar year. 5492

(3) Each exiting corporation shall pay a tax computed by 5493
first allocating and apportioning the unreported net income 5494
pursuant to division (B) of section 5733.05 and section 5733.051 5495
and, if applicable, section 5733.052 of the Revised Code. The 5496
exiting corporation then shall compute the tax due on its 5497
unreported net income allocated and apportioned to this state by 5498
applying divisions (A), (B), and (F) of this section to that 5499
income. 5500

(4) Divisions (C) and (G) of this section, division (D)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code do not apply to an exiting corporation, but exiting corporations are subject to every other provision of this chapter.

(5) Notwithstanding division (B) of section 5733.01 or sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the contrary, each exiting corporation shall report and pay the tax due under division (H) of this section on or before the thirty-first day of May immediately following the calendar year to which division (H)(1)(a) of this section refers. The exiting corporation shall file that report on the form most recently prescribed by the tax commissioner for the purposes of complying with sections 5733.02 and 5733.03 of the Revised Code. Upon request by the corporation, the tax commissioner may extend the date for filing the report.

(6) If, on account of the application of section 5733.053 of the Revised Code, net income is subject to the tax imposed by divisions (A) and (B) of this section, such income shall not be subject to the tax imposed by division (H)(3) of this section.

(7) The amendments made to division (H) of this section by Am. Sub. S.B. 287 of the 123rd general assembly do not apply to any transfer, as defined in section 5733.053 of the Revised Code, for which negotiations began prior to January 1, 2001, and that was commenced in and completed during calendar year 2001, unless the taxpayer makes an election prior to December 31, 2001, to apply those amendments.

(8) The tax commissioner may adopt rules governing division (H) of this section.

(I) Any reference in the Revised Code to "the tax imposed by section 5733.06 of the Revised Code" or "the tax due under section 5733.06 of the Revised Code" includes the taxes imposed under

sections 5733.065 and 5733.066 of the Revised Code. 5532

(J)(1) Division (J) of this section applies solely to a 5533
combined company. Section 5733.057 of the Revised Code shall apply 5534
when calculating the adjustments required by division (J) of this 5535
section. 5536

(2) Subject to division (J)(4) of this section, the total tax 5537
calculated in divisions (A) and (B) of this section shall be 5538
reduced by an amount calculated by multiplying such tax by a 5539
fraction, the numerator of which is the total taxable gross 5540
receipts attributed to providing public utility activity other 5541
than as an electric company under section 5727.03 of the Revised 5542
Code for the year upon which the taxable gross receipts are 5543
measured immediately preceding the tax year, and the denominator 5544
of which is the total gross receipts from all sources for the year 5545
upon which the taxable gross receipts are measured immediately 5546
preceding the tax year. Nothing herein shall be construed to 5547
exclude from the denominator any item of income described in 5548
section 5733.051 of the Revised Code. 5549

(3) Subject to division (J)(4) of this section, the total tax 5550
calculated in division (C) of this section shall be reduced by an 5551
amount calculated by multiplying such tax by the fraction 5552
described in division (J)(2) of this section. 5553

(4) In no event shall the reduction provided by division 5554
(J)(2) or (J)(3) of this section exceed the amount of the excise 5555
tax paid in accordance with section 5727.38 of the Revised Code, 5556
for the year upon which the taxable gross receipts are measured 5557
immediately preceding the tax year. 5558

Sec. 5733.0610. (A) A refundable corporation franchise tax 5559
credit granted by the tax credit authority under section 122.17 of 5560
the Revised Code may be claimed under this chapter, in the order 5561
required under section 5733.98 of the Revised Code. For purposes 5562

As Reported by the Committee of Conference

of making tax payments under this chapter, taxes equal to the 5563
amount of the refundable credit shall be considered to be paid to 5564
this state on the first day of the tax year. The refundable credit 5565
shall not be claimed for any tax years following the calendar year 5566
in which a relocation of employment positions occurs in violation 5567
of an agreement entered into under section 122.171 of the Revised 5568
Code. 5569

(B) A nonrefundable corporation franchise tax credit granted 5570
by the tax credit authority under section 122.171 of the Revised 5571
Code may be claimed under this chapter, in the order required 5572
under section 5733.98 of the Revised Code. 5573

Sec. 5733.09. (A) An incorporated company, whether foreign or 953
domestic, owning and operating a public utility in this state, and 954
required by law to file reports with the tax commissioner and to 955
pay an excise tax upon its gross receipts, and insurance, 956
fraternal, beneficial, bond investment, and other corporations 957
required by law to file annual reports with the superintendent of 958
insurance and dealers in intangibles, the shares of which are, or 959
the capital or ownership in capital employed by such dealer is, 960
subject to the taxes imposed by section 5707.03 of the Revised 961
Code, shall not be subject to this chapter, except for sections 962
5733.031, 5733.042, 5733.05, 5733.052, 5733.053, 5733.069, 963
5733.0611, 5733.40, 5733.41, and sections 5747.40 to 5747.453 of 964
the Revised Code. However, for reports required to be filed under 965
section 5725.14 of the Revised Code in 2003 and thereafter, 966
nothing in this section shall be construed to exempt the property 967
of any dealer in intangibles under section 5725.13 of the Revised 968
Code from the tax imposed under section 5707.03 of the Revised 969
Code. An electric company subject to the filing requirements of 970
section 5727.08 of the Revised Code or otherwise having nexus with 971
or in this state under the Constitution of the United States, or 972
any other corporation having any gross receipts directly 973

As Reported by the Committee of Conference

attributable to providing public utility service as an electric 974
company or having any property directly attributable to providing 975
public utility service as an electric company, is subject to this 976
chapter. 977

(B) A corporation that has made an election under subchapter 978
S, chapter one, subtitle A, of the Internal Revenue Code for its 979
taxable year under such code is exempt from the tax imposed by 980
section 5733.06 of the Revised Code that is based on that taxable 981
year. 982

A corporation that makes such an election shall file a notice 983
of such election with the tax commissioner between the first day 984
of January and the thirty-first day of March of each tax year that 985
the election is in effect. 986

(C) An entity defined to be a "real estate investment trust" 987
by section 856 of the Internal Revenue Code, a "regulated 988
investment company" by section 851 of the Internal Revenue Code, 989
or a "real estate mortgage investment conduit" by section 860D of 990
the Internal Revenue Code, is exempt from taxation for a tax year 991
as a corporation under this chapter and is exempt from taxation 992
for a return year as a dealer in intangibles under Chapter 5725. 993
of the Revised Code if it provides the report required by this 994
division. By the last day of March of the tax or return year the 995
entity shall submit to the tax commissioner the name of the entity 996
with a list of the names, addresses, and social security or 997
federal identification numbers of all investors, shareholders, and 998
other similar investors who owned any interest or invested in the 999
entity during the preceding calendar year. The commissioner may 1000
extend the date by which the report must be submitted for 1001
reasonable cause shown by the entity. The commissioner may 1002
prescribe the form of the report required for exemption under this 1003
division. 1004

(D)(1) As used in this division: 1005

(a) "Commercial printer" means a person primarily engaged in the business of commercial printing. However, "commercial printer" does not include a person primarily engaged in the business of providing duplicating services using photocopy machines or other xerographic processes.

(b) "Commercial printing" means printing by one or more common processes such as letterpress, lithography, gravure, screen, or digital imaging, and includes related activities such as binding, platemaking, prepress operation, cartographic composition, and typesetting.

(c) "Contract for printing" means an oral or written agreement for the purchase of printed materials produced by a commercial printer.

(d) "Intangible property located at the premises of a commercial printer" means intangible property of any kind owned or licensed by a customer of the commercial printer and furnished to the commercial printer for use in commercial printing.

(e) "Printed material" means any tangible personal property produced or processed by a commercial printer pursuant to a contract for printing.

(f) "Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(2) Except as provided in divisions (D)(3) and (4) of this section, a corporation not otherwise subject to the tax imposed by section 5733.06 of the Revised Code for a tax year does not become subject to that tax for the tax year solely by reason of any one or more of the following occurring in this state during the taxable year that ends immediately prior to the tax year:

(a) Ownership by the corporation or a related member of the corporation of tangible personal property or intangible property

located during all or any portion of the taxable year or on the 1037
first day of the tax year at the premises of a commercial printer 1038
with which the corporation or the corporation's related member has 1039
a contract for printing with respect to such property or the 1040
premises of a commercial printer's related member with which the 1041
corporation or the corporation's related member has a contract for 1042
printing with respect to such property; 1043

(b) Sales by the corporation or a related member of the 1044
corporation of property produced at and shipped or distributed 1045
from the premises of a commercial printer with which the 1046
corporation or the corporation's related member has a contract for 1047
printing with respect to such property or the premises of a 1048
commercial printer's related member with which the corporation or 1049
the corporation's related member has a contract for printing with 1050
respect to such property; 1051

(c) Activities of employees, officers, agents, or contractors 1052
of the corporation or a related member of the corporation on the 1053
premises of a commercial printer with which the corporation or the 1054
corporation's related member has a contract for printing or the 1055
premises of a commercial printer's related member with which the 1056
corporation or the corporation's related member has a contract for 1057
printing, where the activities are directly and solely related to 1058
quality control, distribution, or printing services, or any 1059
combination thereof, performed by or at the direction of the 1060
commercial printer or the commercial printer's related member. 1061

(3) The exemption under this division does not apply for a 1063
taxable year to any corporation having on the first day of January 1064
of the tax year or at any time during the taxable year ending 1065
immediately preceding the first day of January of the tax year a 1066
related member which, on the first day of January of the tax year 1067
or during any portion of such taxable year of the corporation, has 1068

nexus in or with this state under the Constitution of the United 1069
States or holds a certificate of compliance with the laws of this 1070
state authorizing it to do business in this state. 1071

(4) With respect to allowing the exemption under this 1072
division, the tax commissioner shall be guided by the doctrines of 1073
"economic reality," "sham transaction," "step transaction," and 1074
"substance over form." A corporation shall bear the burden of 1075
establishing by a preponderance of the evidence that any 1076
transaction giving rise to an exemption claimed under this 1077
division did not have as a principal purpose the avoidance of any 1078
portion of the tax imposed by section 5733.06 of the Revised Code. 1079

Application of the doctrines listed in division (D)(4) of 1080
this section is not limited to this division. 1081

Sec. 5733.11. (A) If any corporation required to file a 5574
report under this chapter fails to file the report within the time 5575
prescribed, files an incorrect report, or fails to remit the full 5576
amount of the tax due for the period covered by the report, the 5577
tax commissioner may make an assessment against the corporation 5578
for any deficiency for the period for which the report or tax is 5579
due, based upon any information in the commissioner's possession. 5580

No assessment shall be made or issued against a corporation 5581
more than three years after the later of the final date the report 5582
subject to assessment was required to be filed or the date the 5583
report was filed. Such time limit may be extended if both the 5584
corporation and the commissioner consent in writing to the 5585
extension or if an agreement waiving or extending the time limit 5586
has been entered into pursuant to section 122.171 of the Revised 5587
Code. Any such extension shall extend the three-year time limit in 5588
division (B) of section 5733.12 of the Revised Code for the same 5589
period of time. There shall be no bar or limit to an assessment 5590
against a corporation that fails to file a report subject to 5591

assessment as required by this chapter, or that files a fraudulent 5592
report. 5593

The commissioner shall give the corporation assessed written 5594
notice of the assessment as provided in section 5703.37 of the 5595
Revised Code. 5596

(B) Unless the corporation to which the notice of assessment 5597
is directed files with the commissioner within sixty days after 5598
service thereof, either personally or by certified mail as 5599
provided in section 5703.056 of the Revised Code, a petition for 5600
reassessment in writing, signed by the authorized agent of the 5601
corporation assessed having knowledge of the facts, and makes 5602
payment of the portion of the assessment required by division (E) 5603
of this section, the assessment shall become final, and the amount 5604
of the assessment shall be due and payable from the corporation 5605
assessed to the treasurer of state. The petition shall indicate 5606
the corporation's objections, but additional objections may be 5607
raised in writing if received prior to the date shown on the final 5608
determination by the commissioner. 5609

Unless the petitioner waives a hearing, the commissioner 5610
shall assign a time and place for the hearing on the petition and 5611
notify the petitioner of the time and place of the hearing by 5612
personal service or certified mail, but the commissioner may 5613
continue the hearing from time to time if necessary. 5614

The commissioner may make such correction to the assessment 5615
as the commissioner finds proper. The commissioner shall serve a 5616
copy of the final determination on the petitioner by personal 5617
service or by certified mail, and the commissioner's decision in 5618
the matter shall be final, subject to appeal as provided in 5619
section 5717.02 of the Revised Code. Only objections decided on 5620
the merits by the board of tax appeals or a court shall be given 5621
collateral estoppel or res judicata effect in considering an 5622
application for refund of amounts paid pursuant to the assessment. 5623

(C) After an assessment becomes final, if any portion of the
assessment remains unpaid, including accrued interest, a certified
copy of the commissioner's entry making the assessment final may
be filed in the office of the clerk of the court of common pleas
in the county in which the corporation has an office or place of
business in this state, the county in which the corporation's
statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall
enter a judgment against the corporation assessed in the amount
shown on the entry. The judgment may be filed by the clerk in a
loose-leaf book entitled "special judgments for state corporate
franchise and litter taxes," and shall have the same effect as
other judgments. Execution shall issue upon the judgment upon the
request of the tax commissioner, and all laws applicable to sales
on execution shall apply to sales made under the judgment.

The portion of an assessment not paid within sixty days after
the day the assessment was issued shall bear interest at the rate
per annum prescribed by section 5703.47 of the Revised Code from
the day the tax commissioner issues the assessment until the
assessment is paid. Interest shall be paid in the same manner as
the tax and may be collected by issuing an assessment under this
section.

(D) All money collected under this section shall be
considered as revenue arising from the taxes imposed by this
chapter.

(E) The portion of an assessment which must be paid upon the
filing of a petition for reassessment shall be as follows:

(1) If the sole item objected to is the assessed penalty or
interest, payment of the assessment, including interest but not
penalty, is required;

(2) If the corporation assessed failed to file, prior to the

date of issuance of the assessment, the annual report required by 5655
section 5733.02 of the Revised Code, any amended report required 5656
by division (C) of section 5733.031 of the Revised Code for the 5657
tax year at issue, or any amended report required by division (D) 5658
of section 5733.067 of the Revised Code to indicate a reduction in 5659
the amount of the credit provided under that section, payment of 5660
the assessment, including interest but not penalty, is required; 5661

(3) If the corporation assessed filed, prior to the date of 5662
issuance of the assessment, the annual report required by section 5663
5733.02 of the Revised Code, all amended reports required by 5664
division (C) of section 5733.031 of the Revised Code for the tax 5665
year at issue, and all amended reports required by division (D) of 5666
section 5733.067 of the Revised Code to indicate a reduction in 5667
the amount of the credit provided under that section, and a 5668
balance of the taxes shown due on the reports as computed on the 5669
reports remains unpaid, payment of only that portion of the 5670
assessment representing the unpaid balance of tax and interest is 5671
required; 5672

(4) If the corporation assessed does not dispute that it is a 5673
taxpayer but claims the protections of section 101 of Public Law 5674
86-272, 73 Stat. 555, 15 U.S.C.A. 381, as amended, payment of only 5675
that portion of the assessment representing any balance of taxes 5676
shown due on the corporation's annual report required by section 5677
5733.02 of the Revised Code, as computed on the report, that 5678
remains unpaid, and that represents taxes imposed by division (C) 5679
of section 5733.06, division (C)(2) of section 5733.065, and 5680
division (C) of section 5733.066 of the Revised Code, together 5681
with all related interest, is required; 5682

(5) If none of the conditions specified in divisions (E)(1) 5683
to (4) of this section apply, or if the corporation assessed 5684
disputes that it is a taxpayer, no payment is required. 5685

(F) Notwithstanding the fact that a petition for reassessment 5686

is pending, the corporation may pay all or a portion of the
assessment that is the subject of the petition. The acceptance of
a payment by the treasurer of state does not prejudice any claim
for refund upon final determination of the petition.

If upon final determination of the petition an error in the
assessment is corrected by the commissioner, upon petition so
filed or pursuant to a decision of the board of tax appeals or any
court to which the determination or decision has been appealed, so
that the amount due from the corporation under the corrected
assessment is less than the portion paid, there shall be issued to
the corporation, its assigns, or legal representative a refund in
the amount of the overpayment as provided by section 5733.12 of
the Revised Code, with interest on that amount as provided by
section 5733.26 of the Revised Code, subject to section 5733.121
of the Revised Code.

Sec. 5733.45. (A) For purposes of this section, a "qualifying
dealer in intangibles" is a dealer in intangibles that is a member
of a qualifying controlled group of which a financial institution
is also a member on the first day of the financial institution's
tax year.

(B) For tax years 2002 and thereafter, there is hereby
allowed to each financial institution a nonrefundable credit
against the tax imposed by section 5733.06 of the Revised Code.
The amount of the credit shall be computed in accordance with
division (C) of this section. The credit shall be claimed in the
order prescribed by section 5733.98 of the Revised Code. The
credit shall not exceed the amount of tax otherwise due under
section 5733.06 of the Revised Code after deducting any other
credits that precede the credit claimed under this section in that
order.

(C) Subject to division (D) of this section, the amount of 1098
the nonrefundable credit is the lesser of the amount described in 1099
division (C)(1) of this section or the amount described in 1100
division (C)(2) of this section. 1101

(1) The amount of tax that a qualifying dealer in intangibles 1102
paid under Chapter 5707. of the Revised Code during the calendar 1103
year immediately preceding the financial institution's tax year. 1104
Such amount shall be reduced, but not below zero, by any refunds 1105
of such tax received by the qualifying dealer in intangibles under 1106
Chapter 5703. of the Revised Code during that calendar year. 1107

(2) The product of the amounts described in division 1109
(C)(2)(a) to (C)(2)(c) of this section. The amount described in 1110
division (C)(2)(a) of this section shall be ascertained on the 1111
last day of the financial institution's taxable year immediately 1112
preceding the tax year. 1113

(a) The cost of the financial institution's direct investment 1114
in the capital stock of the qualifying dealer in intangibles. The 1115
cost does not include any appreciation or goodwill to the extent 1116
those amounts are allowed as an exempted asset on the financial 1117
institution's annual report. 1118

(b) The ratio described in section 5725.15 of the Revised 1119
Code for the calendar year immediately preceding the financial 1120
institution's tax year; 1121

(c) The tax rate imposed under division (D) of section 1122
5707.03 of the Revised Code for the calendar year immediately 1123
preceding the financial institution's tax year. 1124

(D)(1) The principles and concepts set forth in section 1125
5733.057 of the Revised Code shall apply to ascertain if a dealer 1126
in intangibles is a member of a qualifying controlled group of 1127
which the financial institution also is a member and to ascertain 1128

the cost of the financial institution's direct investment in the 1129
capital stock of the qualifying dealer in intangibles. 1130

(2) Notwithstanding section 5733.111 to the contrary, a 1131
financial institution claiming the credit provided by this section 1132
has the burden to establish by a preponderance of the evidence 1133
that none of the doctrines in that section would apply to deny to 1134
the financial institution all or a part of the credit otherwise 1135
provided by this section. 1136

(E) For tax years 2002 and 2003, the credit allowed by this 1137
section applies only if the qualifying dealer in intangibles on 1138
account of which the financial institution is claiming the credit 1139
submits to the Tax Commissioner, not later than January 15, 2002, 1140
a written statement that the qualifying dealer in intangibles 1141
irrevocably agrees that it will not seek a refund of the tax paid 1142
by the dealer under section 5707.03 of the Revised Code in 2000 1143
and 2001, and irrevocably agrees to continue paying that tax in 1144
2002, regardless of the amendment of section 5725.26 of the 1145
Revised Code by Am. Sub. H.B. 405 of the 124th general assembly. 1146

Sec. 5733.98. (A) To provide a uniform procedure for 5703
calculating the amount of tax imposed by section 5733.06 of the 5704
Revised Code that is due under this chapter, a taxpayer shall 5705
claim any credits to which it is entitled in the following order, 5706
except as otherwise provided in section 5733.058 of the Revised 5707
Code: 5708

(1) The credit for taxes paid by a qualifying pass-through 5709
entity allowed under section 5733.0611 of the Revised Code; 5710

(2) The credit allowed for financial institutions under
section 5733.45 of the Revised Code;

(3) The credit for qualifying affiliated groups under section 5711
5733.068 of the Revised Code; 5712

(3) <u>(4)</u> The subsidiary corporation credit under section 5733.067 of the Revised Code;	5713 5714
(4) <u>(5)</u> The savings and loan assessment credit under section 5733.063 of the Revised Code;	5715 5716
(5) <u>(6)</u> The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	5717 5718
(6) <u>(7)</u> The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	5719 5720
(7) <u>(8)</u> The credit for employers that reimburse employee child day-care expenses under section 5733.38 of the Revised Code;	5721 5722
(8) <u>(9)</u> The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	5723 5724 5725
(9) <u>(10)</u> The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	5726 5727
(10) <u>(11)</u> <u>The job retention credit under division (B) of section 5733.0610 of the Revised Code;</u>	5728 5729
<u>(12)</u> The credit for manufacturing investments under section 5733.061 of the Revised Code;	5730 5731
(11) <u>(13)</u> The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	5732 5733 5734
(12) <u>(14)</u> The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	5735 5736 5737
(13) <u>(15)</u> The job training credit under section 5733.42 of the Revised Code;	5738 5739
(14) <u>(16)</u> The credit for qualified research expenses under	5740

section 5733.351 of the Revised Code; 5741

~~(15)~~(17) The enterprise zone credit under section 5709.66 of 5742
the Revised Code; 5743

~~(16)~~(18) The credit for the eligible costs associated with a 5744
voluntary action under section 5733.34 of the Revised Code; 5745

~~(17)~~(19) The credit for employers that establish on-site 5746
child day-care under section 5733.37 of the Revised Code; 5747

~~(18)~~(20) The credit for purchases of qualifying grape 5748
production property under section 5733.32 of the Revised Code; 5749

~~(19)~~(21) The export sales credit under section 5733.069 of 5750
the Revised Code; 5751

~~(20)~~(22) The credit for research and development and 5752
technology transfer investors under section 5733.35 of the Revised 5753
Code; 5754

~~(21)~~(23) The enterprise zone credits under section 5709.65 of 5755
the Revised Code; 5756

~~(22)~~(24) The credit for using Ohio coal under section 5733.39 5757
of the Revised Code; 5758

~~(23)~~(25) The refundable jobs creation credit under division 5759
(A) of section 5733.0610 of the Revised Code. 5760

(B) For any credit except the refundable jobs creation 5761
credit, the amount of the credit for a tax year shall not exceed 5762
the tax due after allowing for any other credit that precedes it 5763
in the order required under this section. Any excess amount of a 5764
particular credit may be carried forward if authorized under the 5765
section creating that credit. 5766

Sec. 5739.01. As used in this chapter: 5767

(A) "Person" includes individuals, receivers, assignees, 5768
trustees in bankruptcy, estates, firms, partnerships, 5769

associations, joint-stock companies, joint ventures, clubs, 5770
societies, corporations, the state and its political subdivisions, 5771
and combinations of individuals of any form. 5772

(B) "Sale" and "selling" include all of the following 5773
transactions for a consideration in any manner, whether absolutely 5774
or conditionally, whether for a price or rental, in money or by 5775
exchange, and by any means whatsoever: 5776

(1) All transactions by which title or possession, or both, 5777
of tangible personal property, is or is to be transferred, or a 5778
license to use or consume tangible personal property is or is to 5779
be granted; 5780

(2) All transactions by which lodging by a hotel is or is to 5781
be furnished to transient guests; 5782

(3) All transactions by which: 5783

(a) An item of tangible personal property is or is to be 5784
repaired, except property, the purchase of which would be exempt 5785
from the tax imposed by section 5739.02 of the Revised Code; 5786

(b) An item of tangible personal property is or is to be 5787
installed, except property, the purchase of which would be exempt 5788
from the tax imposed by section 5739.02 of the Revised Code or 5789
property that is or is to be incorporated into and will become a 5790
part of a production, transmission, transportation, or 5791
distribution system for the delivery of a public utility service; 5792

(c) The service of washing, cleaning, waxing, polishing, or 5793
painting a motor vehicle is or is to be furnished; 5794

(d) Industrial laundry cleaning services are or are to be 5795
provided; 5796

(e) Automatic data processing, computer services, or 5797
electronic information services are or are to be provided for use 5798
in business when the true object of the transaction is the receipt 5799

by the consumer of automatic data processing, computer services, 5800
or electronic information services rather than the receipt of 5801
personal or professional services to which automatic data 5802
processing, computer services, or electronic information services 5803
are incidental or supplemental. Notwithstanding any other 5804
provision of this chapter, such transactions that occur between 5805
members of an affiliated group are not sales. An affiliated group 5806
means two or more persons related in such a way that one person 5807
owns or controls the business operation of another member of the 5808
group. In the case of corporations with stock, one corporation 5809
owns or controls another if it owns more than fifty per cent of 5810
the other corporation's common stock with voting rights. 5811

(f) Telecommunications service is provided that originates or 5812
terminates in this state and is charged in the records of the 5813
telecommunications service vendor to the consumer's telephone 5814
number or account in this state, or that both originates and 5815
terminates in this state; but does not include transactions by 5816
which telecommunications service is paid for by using a prepaid 5817
authorization number or prepaid telephone calling card, or by 5818
which local telecommunications service is obtained from a 5819
coin-operated telephone and paid for by using coin; 5820

(g) Landscaping and lawn care service is or is to be 5821
provided; 5822

(h) Private investigation and security service is or is to be 5823
provided; 5824

(i) Information services or tangible personal property is 5825
provided or ordered by means of a nine hundred telephone call; 5826

(j) Building maintenance and janitorial service is or is to 5827
be provided; 5828

(k) Employment service is or is to be provided; 5829

(l) Employment placement service is or is to be provided; 5830

(m) Exterminating service is or is to be provided; 5831

(n) Physical fitness facility service is or is to be 5832
provided; 5833

(o) Recreation and sports club service is or is to be 5834
provided. 5835

(4) All transactions by which printed, imprinted, 5836
overprinted, lithographic, multilithic, blueprinted, photostatic, 5837
or other productions or reproductions of written or graphic matter 5838
are or are to be furnished or transferred; 5839

(5) The production or fabrication of tangible personal 5840
property for a consideration for consumers who furnish either 5841
directly or indirectly the materials used in the production of 5842
fabrication work; and include the furnishing, preparing, or 5843
serving for a consideration of any tangible personal property 5844
consumed on the premises of the person furnishing, preparing, or 5845
serving such tangible personal property. Except as provided in 5846
section 5739.03 of the Revised Code, a construction contract 5847
pursuant to which tangible personal property is or is to be 5848
incorporated into a structure or improvement on and becoming a 5849
part of real property is not a sale of such tangible personal 5850
property. The construction contractor is the consumer of such 5851
tangible personal property, provided that the sale and 5852
installation of carpeting, the sale and installation of 5853
agricultural land tile, the sale and erection or installation of 5854
portable grain bins, or the provision of landscaping and lawn care 5855
service and the transfer of property as part of such service is 5856
never a construction contract. The transfer of copyrighted motion 5857
picture films for exhibition purposes is not a sale, except such 5858
films as are used solely for advertising purposes. Other than as 5859
provided in this section, "sale" and "selling" do not include 5860
transfers of interest in leased property where the original lessee 5861
and the terms of the original lease agreement remain unchanged, or 5862

professional, insurance, or personal service transactions that 5863
involve the transfer of tangible personal property as an
inconsequential element, for which no separate charges are made.

As used in division (B)(5) of this section: 5864

(a) "Agricultural land tile" means fired clay or concrete 5865
tile, or flexible or rigid perforated plastic pipe or tubing, 5866
incorporated or to be incorporated into a subsurface drainage 5867
system appurtenant to land used or to be used directly in 5868
production by farming, agriculture, horticulture, or floriculture. 5869
The term does not include such materials when they are or are to 5870
be incorporated into a drainage system appurtenant to a building 5871
or structure even if the building or structure is used or to be 5872
used in such production. 5873

(b) "Portable grain bin" means a structure that is used or to 5874
be used by a person engaged in farming or agriculture to shelter 5875
the person's grain and that is designed to be disassembled without 5876
significant damage to its component parts. 5877

(6) All transactions in which all of the shares of stock of a 5878
closely held corporation are transferred, if the corporation is 5879
not engaging in business and its entire assets consist of boats, 5880
planes, motor vehicles, or other tangible personal property 5881
operated primarily for the use and enjoyment of the shareholders; 5882

(7) All transactions in which a warranty, maintenance or 5883
service contract, or similar agreement by which the vendor of the 5884
warranty, contract, or agreement agrees to repair or maintain the 5885
tangible personal property of the consumer is or is to be 5886
provided; 5887

(8) All transactions by which a prepaid authorization number 5888
or a prepaid telephone calling card is or is to be transferred. 5889

(C) "Vendor" means the person providing the service or by 5890
whom the transfer effected or license given by a sale is or is to 5891

be made or given and, for sales described in division (B)(3)(i) of
this section, the telecommunications service vendor that provides
the nine hundred telephone service; if two or more persons are
engaged in business at the same place of business under a single
trade name in which all collections on account of sales by each
are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are
engaged in selling tangible personal property as received from
others, such as eyeglasses, mouthwashes, dentifrices, or similar
articles, are vendors. Veterinarians who are engaged in
transferring to others for a consideration drugs, the dispensing
of which does not require an order of a licensed veterinarian or
physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is
provided, to whom the transfer effected or license given by a sale
is or is to be made or given, to whom the service described in
division (B)(3)(f) or (i) of this section is charged, or to whom
the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated
by nonprofit institutions and persons licensed to practice
veterinary medicine, surgery, and dentistry are consumers of all
tangible personal property and services purchased by them in
connection with the practice of medicine, dentistry, the rendition
of hospital or blood bank service, or the practice of veterinary
medicine, surgery, and dentistry. In addition to being consumers
of drugs administered by them or by their assistants according to
their direction, veterinarians also are consumers of drugs that
under federal law may be dispensed only by or upon the order of a
licensed veterinarian or physician, when transferred by them to
others for a consideration to provide treatment to animals as
directed by the veterinarian.

(3) A person who performs a facility management, or similar

service contract for a contractee is a consumer of all tangible
personal property and services purchased for use in connection
with the performance of such contract, regardless of whether title
to any such property vests in the contractee. The purchase of such
property and services is not subject to the exception for resale
under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter
for the purpose of distributing it or having it distributed to the
public or to a designated segment of the public, free of charge,
that person is the consumer of that printed matter, and the
purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than
purchases, printed matter for the purpose of distributing it or
having it distributed to the public or to a designated segment of
the public, free of charge, that person is the consumer of all
tangible personal property and services purchased for use or
consumption in the production of that printed matter. That person
is not entitled to claim exception under division (E)(8) of this
section for any material incorporated into the printed matter or
any equipment, supplies, or services primarily used to produce the
printed matter.

(c) The distribution of printed matter to the public or to a
designated segment of the public, free of charge, is not a sale to
the members of the public to whom the printed matter is
distributed or to any persons who purchase space in the printed
matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in
division (B)(3) of this section is the consumer of any tangible
personal property used in performing the service. The purchase of
that property is not subject to the resale exception under
division (E)(1) of this section.

(E) "Retail sale" and "sales at retail" include all sales 5955
except those in which the purpose of the consumer is: 5956

(1) To resell the thing transferred or benefit of the service 5957
provided, by a person engaging in business, in the form in which 5958
the same is, or is to be, received by the person; 5959

(2) To incorporate the thing transferred as a material or a 5960
part, into tangible personal property to be produced for sale by 5961
manufacturing, assembling, processing, or refining, or to use or 5962
consume the thing transferred directly in producing a product for 5963
sale by mining, including without limitation the extraction from 5964
the earth of all substances that are classed geologically as 5965
minerals, production of crude oil and natural gas, farming, 5966
agriculture, horticulture, or floriculture, and persons engaged in 5967
rendering farming, agricultural, horticultural, or floricultural 5968
services, and services in the exploration for, and production of, 5969
crude oil and natural gas, for others are deemed engaged directly 5970
in farming, agriculture, horticulture, and floriculture, or 5971
exploration for, and production of, crude oil and natural gas; 5972
directly in the rendition of a public utility service, except that 5973
the sales tax levied by section 5739.02 of the Revised Code shall 5974
be collected upon all meals, drinks, and food for human 5975
consumption sold upon Pullman and railroad coaches. This paragraph 5976
does not exempt or except from "retail sale" or "sales at retail" 5977
the sale of tangible personal property that is to be incorporated 5978
into a structure or improvement to real property. 5979

(3) To hold the thing transferred as security for the 5980
performance of an obligation of the vendor; 5981

(4) To use or consume the thing transferred in the process of 5982
reclamation as required by Chapters 1513. and 1514. of the Revised 5983
Code; 5984

(5) To resell, hold, use, or consume the thing transferred as 5985

evidence of a contract of insurance; 5986

(6) To use or consume the thing directly in commercial 5987
fishing; 5988

(7) To incorporate the thing transferred as a material or a 5989
part into, or to use or consume the thing transferred directly in 5990
the production of, magazines distributed as controlled circulation 5991
publications; 5992

(8) To use or consume the thing transferred in the production 5993
and preparation in suitable condition for market and sale of 5994
printed, imprinted, overprinted, lithographic, multilithic, 5995
blueprinted, photostatic, or other productions or reproductions of 5996
written or graphic matter; 5997

(9) To use the thing transferred, as described in section 5998
5739.011 of the Revised Code, primarily in a manufacturing 5999
operation to produce tangible personal property for sale; 6000

(10) To use the benefit of a warranty, maintenance or service 6001
contract, or similar agreement, as defined in division (B)(7) of 6002
this section, to repair or maintain tangible personal property, if 6003
all of the property that is the subject of the warranty, contract, 6004
or agreement would be exempt on its purchase from the tax imposed 6005
by section 5739.02 of the Revised Code; 6006

(11) To use the thing transferred as qualified research and 6007
development equipment; 6008

(12) To use or consume the thing transferred primarily in 6009
storing, transporting, mailing, or otherwise handling purchased 6010
sales inventory in a warehouse, distribution center, or similar 6011
facility when the inventory is primarily distributed outside this 6012
state to retail stores of the person who owns or controls the 6013
warehouse, distribution center, or similar facility, to retail 6014
stores of an affiliated group of which that person is a member, or 6015
by means of direct marketing. Division (E)(12) of this section 6016

does not apply to motor vehicles registered for operation on the
public highways. As used in division (E)(12) of this section,
"affiliated group" has the same meaning as in division (B)(3)(e)
of this section and "direct marketing" has the same meaning as in
division (B)(37) of section 5739.02 of the Revised Code.

(13) To use or consume the thing transferred to fulfill a
contractual obligation incurred by a warrantor pursuant to a
warranty provided as a part of the price of the tangible personal
property sold or by a vendor of a warranty, maintenance or service
contract, or similar agreement the provision of which is defined
as a sale under division (B)(7) of this section;

(14) To use or consume the thing transferred in the
production of a newspaper for distribution to the public;

(15) To use tangible personal property to perform a service
listed in division (B)(3) of this section, if the property is or
is to be permanently transferred to the consumer of the service as
an integral part of the performance of the service.

As used in division (E) of this section, "thing" includes all
transactions included in divisions (B)(3)(a), (b), and (e) of this
section.

Sales conducted through a coin-operated device that activates
vacuum equipment or equipment that dispenses water, whether or not
in combination with soap or other cleaning agents or wax, to the
consumer for the consumer's use on the premises in washing,
cleaning, or waxing a motor vehicle, provided no other personal
property or personal service is provided as part of the
transaction, are not retail sales or sales at retail.

(F) "Business" includes any activity engaged in by any person
with the object of gain, benefit, or advantage, either direct or
indirect. "Business" does not include the activity of a person in
managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or 6048
continuing in business, and liquidating a business when the 6049
liquidator thereof holds itself out to the public as conducting 6050
such business. Making a casual sale is not engaging in business. 6051

(H)(1) "Price," except as provided in divisions (H)(2) and 6052
(3) of this section, means the aggregate value in money of 6053
anything paid or delivered, or promised to be paid or delivered, 6054
in the complete performance of a retail sale, without any 6055
deduction on account of the cost of the property sold, cost of 6056
materials used, labor or service cost, interest, discount paid or 6057
allowed after the sale is consummated, or any other expense. If 6058
the retail sale consists of the rental or lease of tangible 6059
personal property, "price" means the aggregate value in money of 6060
anything paid or delivered, or promised to be paid or delivered, 6061
in the complete performance of the rental or lease, without any 6062
deduction for tax, interest, labor or service charge, damage 6063
liability waiver, termination or damage charge, discount paid or 6064
allowed after the lease is consummated, or any other expense. ~~The~~ 6065
Except as provided in division (H)(4) of this section, the sales 6066
tax shall be calculated and collected by the lessor on each 6067
payment made by the lessee. Price does not include the 6068
consideration received as a deposit refundable to the consumer 6069
upon return of a beverage container, the consideration received as 6070
a deposit on a carton or case that is used for such returnable 6071
containers, or the consideration received as a refundable security 6072
deposit for the use of tangible personal property to the extent 6073
that it actually is refunded, if the consideration for such 6074
refundable deposit is separately stated from the consideration 6075
received or to be received for the tangible personal property 6076
transferred in the retail sale. Such separation must appear in the 6077
sales agreement or on the initial invoice or initial billing 6078
rendered by the vendor to the consumer. Price is the amount 6079

received inclusive of the tax, provided the vendor establishes to 6080
the satisfaction of the tax commissioner that the tax was added to 6081
the price. When the price includes both a charge for tangible 6082
personal property and a charge for providing a service and the 6083
sale of the property and the charge for the service are separately 6084
taxable, or have a separately determinable tax status, the price 6085
shall be separately stated for each such charge so the tax can be 6086
correctly computed and charged. 6087

The tax collected by the vendor from the consumer under this 6088
chapter is not part of the price, but is a tax collection for the 6089
benefit of the state and of counties levying an additional sales 6090
tax pursuant to section 5739.021 or 5739.026 of the Revised Code 6091
and of transit authorities levying an additional sales tax 6092
pursuant to section 5739.023 of the Revised Code. Except for the 6093
discount authorized in section 5739.12 of the Revised Code, no 6094
person other than the state or such a county or transit authority 6095
shall derive any benefit from the collection or payment of such 6096
tax. 6097

(2) In the case of a sale of any new motor vehicle by a new 6098
motor vehicle dealer, as defined in section 4517.01 of the Revised 6099
Code, in which another motor vehicle is accepted by the dealer as 6100
part of the consideration received, "price" has the same meaning 6101
as in division (H)(1) of this section, reduced by the credit 6102
afforded the consumer by the dealer for the motor vehicle received 6103
in trade. 6104

(3) In the case of a sale of any watercraft or outboard motor 6105
by a watercraft dealer licensed in accordance with section 6106
1547.543 of the Revised Code, in which another watercraft, 6107
watercraft and trailer, or outboard motor is accepted by the 6108
dealer as part of the consideration received, "price" has the same 6109
meaning as in division (H)(1) of this section, reduced by the 6110
credit afforded the consumer by the dealer for the watercraft, 6111

watercraft and trailer, or outboard motor received in trade. As

6112

(4) In the case of the lease of any motor vehicle designed by
the manufacturer to carry a load of not more than one ton,
watercraft, outboard motor, or aircraft, or the lease of any
tangible personal property, other than motor vehicles designed by
the manufacturer to carry a load of more than one ton, to be used
by the lessee primarily for business purposes, the sales tax shall
be collected by the vendor at the time the lease is consummated
and shall be calculated by the vendor on the basis of the total
amount to be paid by the lessee under the lease agreement. If the
total amount of the consideration for the lease includes amounts
that are not calculated at the time the lease is executed, the tax
shall be calculated and collected by the vendor at the time such
amounts are billed to the lessee. In the case of an open-end
lease, the sales tax shall be calculated by the vendor on the
basis of the total amount to be paid during the initial fixed term
of the lease, and then for each subsequent renewal period as it
comes due.

6113

6114

6115

6116

6117

6118

6119

6120

6121

6122

As used in ~~division~~ divisions (H)(3) and (4) of this section,
"motor vehicle" has the same meaning as in section 4501.01 of the
Revised Code, and "watercraft" includes an outdrive unit attached
to the watercraft.

6123

6124

6125

6126

6127

(I) "Receipts" means the total amount of the prices of the
sales of vendors, provided that cash discounts allowed and taken
on sales at the time they are consummated are not included, minus
any amount deducted as a bad debt pursuant to section 5739.121 of
the Revised Code. "Receipts" does not include the sale price of
property returned or services rejected by consumers when the full
sale price and tax are refunded either in cash or by credit.

6128

6129

6130

6131

6132

6133

6134

(J) "Place of business" means any location at which a person
engages in business.

6135

6136

(K) "Premises" includes any real property or portion thereof 6137
upon which any person engages in selling tangible personal 6138
property at retail or making retail sales and also includes any 6139
real property or portion thereof designated for, or devoted to, 6140
use in conjunction with the business engaged in by such person. 6141

(L) "Casual sale" means a sale of an item of tangible 6142
personal property that was obtained by the person making the sale, 6143
through purchase or otherwise, for the person's own use in this 6144
state and was previously subject to any state's taxing 6145
jurisdiction on its sale or use, and includes such items acquired 6146
for the seller's use that are sold by an auctioneer employed 6147
directly by the person for such purpose, provided the location of 6148
such sales is not the auctioneer's permanent place of business. As 6149
used in this division, "permanent place of business" includes any 6150
location where such auctioneer has conducted more than two 6151
auctions during the year. 6152

(M) "Hotel" means every establishment kept, used, maintained, 6153
advertised, or held out to the public to be a place where sleeping 6154
accommodations are offered to guests, in which five or more rooms 6155
are used for the accommodation of such guests, whether the rooms 6156
are in one or several structures. 6157

(N) "Transient guests" means persons occupying a room or 6158
rooms for sleeping accommodations for less than thirty consecutive 6159
days. 6160

(O) "Making retail sales" means the effecting of transactions 6161
wherein one party is obligated to pay the price and the other 6162
party is obligated to provide a service or to transfer title to or 6163
possession of the item sold. "Making retail sales" does not 6164
include the preliminary acts of promoting or soliciting the retail 6165
sales, other than the distribution of printed matter which 6166
displays or describes and prices the item offered for sale, nor 6167
does it include delivery of a predetermined quantity of tangible 6168

personal property or transportation of property or personnel to or 6169
from a place where a service is performed, regardless of whether 6170
the vendor is a delivery vendor. 6171

(P) "Used directly in the rendition of a public utility 6172
service" means that property which is to be incorporated into and 6173
will become a part of the consumer's production, transmission, 6174
transportation, or distribution system and that retains its 6175
classification as tangible personal property after such 6176
incorporation; fuel or power used in the production, transmission, 6177
transportation, or distribution system; and tangible personal 6178
property used in the repair and maintenance of the production, 6179
transmission, transportation, or distribution system, including 6180
only such motor vehicles as are specially designed and equipped 6181
for such use. Tangible personal property and services used 6182
primarily in providing highway transportation for hire are not 6183
used in providing a public utility service as defined in this 6184
division. 6185

(Q) "Refining" means removing or separating a desirable 6186
product from raw or contaminated materials by distillation or 6187
physical, mechanical, or chemical processes. 6188

(R) "Assembly" and "assembling" mean attaching or fitting 6189
together parts to form a product, but do not include packaging a 6190
product. 6191

(S) "Manufacturing operation" means a process in which 6192
materials are changed, converted, or transformed into a different 6193
state or form from which they previously existed and includes 6194
refining materials, assembling parts, and preparing raw materials 6195
and parts by mixing, measuring, blending, or otherwise committing 6196
such materials or parts to the manufacturing process. 6197
"Manufacturing operation" does not include packaging. 6198

(T) "Fiscal officer" means, with respect to a regional 6199

transit authority, the secretary-treasurer thereof, and with
respect to a county that is a transit authority, the fiscal
officer of the county transit board if one is appointed pursuant
to section 306.03 of the Revised Code or the county auditor if the
board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority
created pursuant to section 306.31 of the Revised Code or a county
in which a county transit system is created pursuant to section
306.01 of the Revised Code. For the purposes of this chapter, a
transit authority must extend to at least the entire area of a
single county. A transit authority that includes territory in more
than one county must include all the area of the most populous
county that is a part of such transit authority. County population
shall be measured by the most recent census taken by the United
States census bureau.

(V) "Legislative authority" means, with respect to a regional
transit authority, the board of trustees thereof, and with respect
to a county that is a transit authority, the board of county
commissioners.

(W) "Territory of the transit authority" means all of the
area included within the territorial boundaries of a transit
authority as they from time to time exist. Such territorial
boundaries must at all times include all the area of a single
county or all the area of the most populous county that is a part
of such transit authority. County population shall be measured by
the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing
anything described in division (B)(3) of this section for
consideration.

(Y)(1)(a) "Automatic data processing" means processing of
others' data, including keypunching or similar data entry services

together with verification thereof, or providing access to 6231
computer equipment for the purpose of processing data. 6232

(b) "Computer services" means providing services consisting 6233
of specifying computer hardware configurations and evaluating 6234
technical processing characteristics, computer programming, and 6235
training of computer programmers and operators, provided in 6236
conjunction with and to support the sale, lease, or operation of 6237
taxable computer equipment or systems. 6238

(c) "Electronic information services" means providing access 6239
to computer equipment by means of telecommunications equipment for 6240
the purpose of either of the following: 6241

(i) Examining or acquiring data stored in or accessible to 6242
the computer equipment; 6243

(ii) Placing data into the computer equipment to be retrieved 6244
by designated recipients with access to the computer equipment. 6245
6246

(d) "Automatic data processing, computer services, or 6247
electronic information services" shall not include personal or 6248
professional services. 6249

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 6250
section, "personal and professional services" means all services 6251
other than automatic data processing, computer services, or 6252
electronic information services, including but not limited to: 6253

(a) Accounting and legal services such as advice on tax 6254
matters, asset management, budgetary matters, quality control, 6255
information security, and auditing and any other situation where 6256
the service provider receives data or information and studies, 6257
alters, analyzes, interprets, or adjusts such material; 6258

(b) Analyzing business policies and procedures; 6259

(c) Identifying management information needs; 6260

(d) Feasibility studies, including economic and technical 6261
analysis of existing or potential computer hardware or software 6262
needs and alternatives; 6263

(e) Designing policies, procedures, and custom software for 6264
collecting business information, and determining how data should 6265
be summarized, sequenced, formatted, processed, controlled, and 6266
reported so that it will be meaningful to management; 6267

(f) Developing policies and procedures that document how 6268
business events and transactions are to be authorized, executed, 6269
and controlled; 6270

(g) Testing of business procedures; 6271

(h) Training personnel in business procedure applications; 6272

(i) Providing credit information to users of such information 6273
by a consumer reporting agency, as defined in the "Fair Credit 6274
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or 6275
as hereafter amended, including but not limited to gathering, 6276
organizing, analyzing, recording, and furnishing such information 6277
by any oral, written, graphic, or electronic medium; 6278

(j) Providing debt collection services by any oral, written, 6279
graphic, or electronic means. 6280

The services listed in divisions (Y)(2)(a) to (j) of this 6281
section are not automatic data processing or computer services. 6282

(Z) "Highway transportation for hire" means the 6283
transportation of personal property belonging to others for 6284
consideration by any of the following: 6285

(1) The holder of a permit or certificate issued by this 6286
state or the United States authorizing the holder to engage in 6287
transportation of personal property belonging to others for 6288
consideration over or on highways, roadways, streets, or any 6289
similar public thoroughfare; 6290

(2) A person who engages in the transportation of personal 6291
property belonging to others for consideration over or on 6292
highways, roadways, streets, or any similar public thoroughfare 6293
but who could not have engaged in such transportation on December 6294
11, 1985, unless the person was the holder of a permit or 6295
certificate of the types described in division (Z)(1) of this 6296
section; 6297

(3) A person who leases a motor vehicle to and operates it 6298
for a person described by division (Z)(1) or (2) of this section. 6299

(AA) "Telecommunications service" means the transmission of 6300
any interactive, two-way electromagnetic communications, including 6301
voice, image, data, and information, through the use of any medium 6302
such as wires, cables, microwaves, cellular radio, radio waves, 6303
light waves, or any combination of those or similar media. 6304
"Telecommunications service" includes message toll service even 6305
though the vendor provides the message toll service by means of 6306
wide area transmission type service or private communications 6307
service purchased from another telecommunications service 6308
provider, but does not include any of the following: 6309

(1) Sales of incoming or outgoing wide area transmission 6310
service or wide area transmission type service, including eight 6311
hundred or eight-hundred-type service, to the person contracting 6312
for the receipt of that service; 6313

(2) Sales of private communications service to the person 6314
contracting for the receipt of that service that entitles the 6315
purchaser to exclusive or priority use of a communications channel 6316
or group of channels between exchanges; 6317

(3) Sales of telecommunications service by companies subject 6318
to the excise tax imposed by Chapter 5727. of the Revised Code; 6319

(4) Sales of telecommunications service to a provider of 6320
telecommunications service, including access services, for use in 6321

providing telecommunications service; 6322

(5) Value-added nonvoice services in which computer 6323
processing applications are used to act on the form, content, 6324
code, or protocol of the information to be transmitted; 6325

(6) Transmission of interactive video programming by a cable 6326
television system as defined in section 505.90 of the Revised 6327
Code. 6328

(BB) "Industrial laundry cleaning services" means removing 6329
soil or dirt from or supplying towels, linens, or articles of 6330
clothing that belong to others and are used in a trade or 6331
business. 6332

(CC) "Magazines distributed as controlled circulation 6333
publications" means magazines containing at least twenty-four 6334
pages, at least twenty-five per cent editorial content, issued at 6335
regular intervals four or more times a year, and circulated 6336
without charge to the recipient, provided that such magazines are 6337
not owned or controlled by individuals or business concerns which 6338
conduct such publications as an auxiliary to, and essentially for 6339
the advancement of the main business or calling of, those who own 6340
or control them. 6341

(DD) "Landscaping and lawn care service" means the services 6342
of planting, seeding, sodding, removing, cutting, trimming, 6343
pruning, mulching, aerating, applying chemicals, watering, 6344
fertilizing, and providing similar services to establish, promote, 6345
or control the growth of trees, shrubs, flowers, grass, ground 6346
cover, and other flora, or otherwise maintaining a lawn or 6347
landscape grown or maintained by the owner for ornamentation or 6348
other nonagricultural purpose. However, "landscaping and lawn care 6349
service" does not include the providing of such services by a 6350
person who has less than five thousand dollars in sales of such 6351
services during the calendar year. 6352

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or

storing test results, is not qualified research and development
equipment unless such property is primarily used by the consumer
in testing the product, equipment, or manufacturing process being
created, designed, or formulated by the consumer in the research
and development activity or in recording or storing such test
results.

(II) "Building maintenance and janitorial service" means
cleaning the interior or exterior of a building and any tangible
personal property located therein or thereon, including any
services incidental to such cleaning for which no separate charge
is made. However, "building maintenance and janitorial service"
does not include the providing of such service by a person who has
less than five thousand dollars in sales of such service during
the calendar year.

(JJ) "Employment service" means providing or supplying
personnel, on a temporary or long-term basis, to perform work or
labor under the supervision or control of another, when the
personnel so supplied receive their wages, salary, or other
compensation from the provider of the service. "Employment
service" does not include:

(1) Acting as a contractor or subcontractor, where the
personnel performing the work are not under the direct control of
the purchaser.

(2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract
of at least one year between the service provider and the
purchaser that specifies that each employee covered under the
contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as
defined in division (B)(3)(e) of this section.

(KK) "Employment placement service" means locating or finding

employment for a person or finding or locating an employee to fill 6416
an available position. 6417

(LL) "Exterminating service" means eradicating or attempting 6418
to eradicate vermin infestations from a building or structure, or 6419
the area surrounding a building or structure, and includes 6420
activities to inspect, detect, or prevent vermin infestation of a 6421
building or structure. 6422

(MM) "Physical fitness facility service" means all 6423
transactions by which a membership is granted, maintained, or 6424
renewed, including initiation fees, membership dues, renewal fees, 6425
monthly minimum fees, and other similar fees and dues, by a 6426
physical fitness facility such as an athletic club, health spa, or 6427
gymnasium, which entitles the member to use the facility for 6428
physical exercise. 6429

(NN) "Recreation and sports club service" means all 6430
transactions by which a membership is granted, maintained, or 6431
renewed, including initiation fees, membership dues, renewal fees, 6432
monthly minimum fees, and other similar fees and dues, by a 6433
recreation and sports club, which entitles the member to use the 6434
facilities of the organization. "Recreation and sports club" means 6435
an organization that has ownership of, or controls or leases on a 6436
continuing, long-term basis, the facilities used by its members 6437
and includes an aviation club, gun or shooting club, yacht club, 6438
card club, swimming club, tennis club, golf club, country club, 6439
riding club, amateur sports club, or similar organization. 6440

(OO) "Livestock" means farm animals commonly raised for food 6441
or food production, and includes but is not limited to cattle, 6442
sheep, goats, swine, and poultry. "Livestock" does not include 6443
invertebrates, fish, amphibians, reptiles, horses, domestic pets, 6444
animals for use in laboratories or for exhibition, or other 6445
animals not commonly raised for food or food production. 6446

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

(2) "Full-time employee" means an individual who is employed for consideration for thirty-five or more hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(UU)(1) "Prepaid authorization number" means a numeric or alphanumeric combination that represents a prepaid account that can be used by the account holder solely to obtain telecommunications service, and includes any renewals or increases in the prepaid account.

(2) "Prepaid telephone calling card" means a tangible item that contains a prepaid authorization number that can be used solely to obtain telecommunications service, and includes any renewals or increases in the prepaid account.

(VV) "Lease" means any transfer for a consideration of the possession of and right to use, but not title to, tangible personal property for a fixed period of time greater than twenty-eight days or for an open-ended period of time with a minimum fixed period of more than twenty-eight days.

Sec. 5739.012. (A) As used in this section:

(1) "Sham transaction" means a transaction or series of transactions without economic substance because there is no business purpose or expectation of profit other than obtaining tax benefits.

(2) "Tax" includes only those taxes levied by or pursuant to Chapter 5739. of the Revised Code that are required to be calculated and collected as prescribed by division (H)(4) of

section 5739.01 of the Revised Code.

(3) "Taxpayer" includes any person required to pay or to collect and remit tax.

(B)(1) The tax commissioner may disregard any sham transaction and ascertain a taxpayer's liability for tax without the sham transaction.

(2) A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden of establishing, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(C) The tax commissioner may prescribe rules to administer this section.

Sec. 5741.01. As used in this chapter: 6496

(A) "Person" includes individuals, receivers, assignees, 6497
trustees in bankruptcy, estates, firms, partnerships, 6498
associations, joint-stock companies, joint ventures, clubs, 6499
societies, corporations, business trusts, governments, and 6500
combinations of individuals of any form. 6501

(B) "Storage" means and includes any keeping or retention in 6502
this state for use or other consumption in this state. 6503

(C) "Use" means and includes the exercise of any right or 6504
power incidental to the ownership of the thing used. A thing is 6505
also "used" in this state if its consumer gives or otherwise 6506
distributes it, without charge, to recipients in this state. 6507

(D) "Purchase" means acquired or received for a 6508
consideration, whether such acquisition or receipt was effected by 6509
a transfer of title, or of possession, or of both, or a license to 6510
use or consume; whether such transfer was absolute or conditional, 6511
and by whatever means the transfer was effected; and whether the 6512
consideration was money, credit, barter, or exchange. Purchase 6513
includes production, even though the article produced was used, 6514
stored, or consumed by the producer. The transfer of copyrighted 6515
motion picture films for exhibition purposes is not a purchase, 6516
except such films as are used solely for advertising purposes. 6517

(E) "Seller" means the person from whom a purchase is made, 6518
and includes every person engaged in this state or elsewhere in 6519
the business of selling tangible personal property or providing a 6520
service for storage, use, or other consumption or benefit in this 6521
state; and when, in the opinion of the tax commissioner, it is 6522
necessary for the efficient administration of this chapter, to 6523
regard any salesman, representative, peddler, or canvasser as the 6524
agent of a dealer, distributor, supervisor, or employer under whom 6525
~~he~~ the person operates, or from whom ~~he~~ the person obtains 6526
tangible personal property, sold by ~~him~~ the person for storage, 6527
use, or other consumption in this state, irrespective of whether 6528
or not ~~he~~ the person is making such sales on ~~his~~ the person's own 6529
behalf, or on behalf of such dealer, distributor, supervisor, or 6530
employer, the commissioner may regard ~~him~~ the person as such 6531
agent, and may regard such dealer, distributor, supervisor, or 6532
employer as the seller. "Seller" does not include any person to 6533
the extent the person provides a communications medium, such as, 6534
but not limited to, newspapers, magazines, radio, television, or 6535
cable television, by means of which sellers solicit purchases of 6536
their goods or services. 6537

(F) "Consumer" means any person who has purchased tangible 6538
personal property or has been provided a service for storage, use, 6539

or other consumption or benefit in this state. "Consumer" does not
include a person who receives, without charge, tangible personal
property or a service.

A person who performs a facility management or similar
service contract for a contractee is a consumer of all tangible
personal property and services purchased for use in connection
with the performance of such contract, regardless of whether title
to any such property vests in the contractee. The purchase of such
property and services is not subject to the exception for resale
under division (E)(1) of section 5739.01 of the Revised Code.

(G)(1) "Price," except in the case of watercraft, outboard
motors, or new motor vehicles, means the aggregate value in money
of anything paid or delivered, or promised to be paid or
delivered, by a consumer to a seller in the complete performance
of the transaction by which tangible personal property has been
purchased or a service has been provided for storage, use, or
other consumption or benefit in this state, without any deduction
or exclusion on account of the cost of the property sold, cost of
materials used, labor or service cost, interest, discount paid or
allowed after the sale is consummated, or any other expense. If
the transaction consists of the rental or lease of tangible
personal property, "price" means the aggregate value in money of
anything paid or delivered, or promised to be paid or delivered by
the lessee to the lessor, in the complete performance of the
rental or lease, without any deduction or exclusion of tax,
interest, labor or service charge, damage liability waiver,
termination or damage charge, discount paid or allowed after the
lease is consummated, or any other expense. The Except as provided
in division (G)(6) of this section, the tax shall be calculated
and collected by the lessor on each payment made by the lessee. If
a consumer produces the tangible personal property used by him the

consumer, the price is the produced cost of such tangible personal 6572
property. The tax collected by the seller from the consumer under 6573
such sections is not a part of the price, but is a tax collection 6574
for the benefit of the state, and of counties levying an 6575
additional use tax pursuant to section 5741.021 or 5741.023 of the 6576
Revised Code and of transit authorities levying an additional use 6577
tax pursuant to section 5741.022 of the Revised Code and, except 6578
for the discount authorized under section 5741.12 of the Revised 6579
Code, no person other than the state or such a county or transit 6580
authority shall derive any benefit from the collection or payment 6581
of such tax. 6582

(2) In the case of watercraft, outboard motors, or new motor 6583
vehicles, "price" has the same meaning as in division (H) of 6584
section 5739.01 of the Revised Code. 6585

(3) In the case of a nonresident business consumer that 6586
purchases and uses tangible personal property outside this state 6587
and subsequently temporarily stores, uses, or otherwise consumes 6588
such tangible personal property in the conduct of business in this 6589
state, the consumer or the tax commissioner may determine the 6590
price based on the value of the temporary storage, use, or other 6591
consumption, in lieu of determining the price pursuant to division 6592
(G)(1) of this section. A price determination made by the consumer 6593
is subject to review and redetermination by the commissioner. 6594

(4) In the case of tangible personal property held in this 6596
state as inventory for sale or lease, and that is temporarily 6597
stored, used, or otherwise consumed in a taxable manner, the price 6598
is the value of the temporary use. A price determination made by 6599
the consumer is subject to review and redetermination by the 6600
commissioner. 6601

(5) In the case of tangible personal property originally 6602

purchased and used by the consumer outside this state, and that
becomes permanently stored, used, or otherwise consumed in this
state more than six months after its acquisition by the consumer,
the consumer or the tax commissioner may determine the price based
on the current value of such tangible personal property, in lieu
of determining the price pursuant to division (G)(1) of this
section. A price determination made by the consumer is subject to
review and redetermination by the commissioner.

(6) In the case of the purchase or lease of any motor vehicle
designed by the manufacturer to carry a load of not more than one
ton, watercraft, outboard motor, or aircraft, or the lease of any
tangible personal property, other than motor vehicles designed by
the manufacturer to carry a load of more than one ton, to be used
by the lessee primarily for business purposes, the tax shall be
collected by the vendor at the time the lease is consummated and
calculated by the vendor on the basis of the total amount to be
paid by the lessee under the lease agreement. If the total amount
of the consideration for the lease includes amounts that are not
calculated at the time the lease is executed, the tax shall be
calculated and collected by the vendor at the time such amounts
are billed to the lessee. In the case of an open-end lease, the
tax shall be calculated by the vendor on the basis of the total
amount to be paid during the initial fixed term of the lease, and
then for each subsequent renewal period as it comes due. As used
in division (G)(6) of this section only, "motor vehicle" has the
same meaning as in section 4501.01 of the Revised Code.

(H) "Nexus with this state" means that the seller engages in
continuous and widespread solicitation of purchases from residents
of this state or otherwise purposefully directs its business
activities at residents of this state.

(I) "Substantial nexus with this state" means that the seller

has sufficient contact with this state, in accordance with Section 6629
8 of Article I of the Constitution of the United States, to allow 6630
the state to require the seller to collect and remit use tax on 6631
sales of tangible personal property or services made to consumers 6632
in this state. "Substantial nexus with this state" exists when the 6633
seller does any of the following: 6634

(1) Maintains a place of business within this state, whether 6635
operated by employees or agents of the seller, by a member of an 6636
affiliated group, as described in division (B)(3)(e) of section 6637
5739.01 of the Revised Code, of which the seller is a member, or 6638
by a franchisee using a trade name of the seller; 6639

(2) Regularly has employees, agents, representatives, 6640
solicitors, installers, repairmen, salesmen, or other individuals 6641
in this state for the purpose of conducting the business of the 6642
seller; 6643

(3) Uses a person in this state for the purpose of receiving 6644
or processing orders of the seller's goods or services; 6645

(4) Makes regular deliveries of tangible personal property 6646
into this state by means other than common carrier; 6647

(5) Has membership in an affiliated group, as described in 6648
division (B)(3)(e) of section 5739.01 of the Revised Code, at 6649
least one other member of which has substantial nexus with this 6650
state; 6651

(6) Owns tangible personal property that is rented or leased 6652
to a consumer in this state, or offers tangible personal property, 6653
on approval, to consumers in this state; 6654

(7) Is registered with the secretary of state to do business 6655
in this state or is registered or licensed by any state agency, 6656
board, or commission to transact business in this state or to make 6657
sales to persons in this state; 6658

(8) Has any other contact with this state that would allow 6659
this state to require the seller to collect and remit use tax 6660
under Section 8 of Article I of the Constitution of the United 6661
States. 6662

(J) "Fiscal officer" means, with respect to a regional 6663
transit authority, the secretary-treasurer thereof, and with 6664
respect to a county which is a transit authority, the fiscal 6665
officer of the county transit board appointed pursuant to section 6666
306.03 of the Revised Code or, if the board of county 6667
commissioners operates the county transit system, the county 6668
auditor. 6669

(K) "Territory of the transit authority" means all of the 6670
area included within the territorial boundaries of a transit 6671
authority as they from time to time exist. Such territorial 6672
boundaries must at all times include all the area of a single 6673
county or all the area of the most populous county which is a part 6674
of such transit authority. County population shall be measured by 6675
the most recent census taken by the United States census bureau. 6676

(L) "Transit authority" means a regional transit authority 6677
created pursuant to section 306.31 of the Revised Code or a county 6678
in which a county transit system is created pursuant to section 6679
306.01 of the Revised Code. For the purposes of this chapter, a 6680
transit authority must extend to at least the entire area of a 6681
single county. A transit authority which includes territory in 6682
more than one county must include all the area of the most 6683
populous county which is a part of such transit authority. County 6684
population shall be measured by the most recent census taken by 6685
the United States census bureau. 6686

(M) "Providing a service" has the same meaning as in division 6687
(X) of section 5739.01 of the Revised Code. 6688

(N) "Other consumption" includes receiving the benefits of a 6689

service.

(O) "Lease" means any transfer for a consideration of the possession of and right to use, but not title to, tangible personal property for a fixed period of time greater than twenty-eight days or for an open-ended period of time with a minimum fixed period of more than twenty-eight days.

Sec. 5741.011. (A) As used in this section:

(1) "Sham transaction" has the same meaning as in section 5739.012 of the Revised Code.

(2) "Tax" includes only those taxes levied by or pursuant to Chapter 5741. of the Revised Code that are required to be calculated and collected as prescribed by division (G)(6) of section 5741.01 of the Revised Code.

(3) "Taxpayer" includes any person required to pay or to collect and remit tax.

(B)(1) The tax commissioner may disregard any sham transaction and ascertain a taxpayer's liability for tax without the sham transaction.

(2) A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden of establishing, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(C) The tax commissioner may prescribe rules to administer this section.

Sec. 5743.05. All stamps provided for by section 5743.03 of the Revised Code, when procured by the tax commissioner, shall be immediately delivered to the treasurer of state, who shall execute a receipt therefor showing the number and aggregate face value of each denomination received by the treasurer of state and any other information that the commissioner requires to enforce the collection and distribution of all taxes imposed under section 5743.024 or 5743.026 of the Revised Code, and deliver the receipt to the commissioner. The treasurer of state shall sell the stamps and, on the fifth day of each month, make a report showing all sales made during the preceding month, with the names of purchasers, the number of each denomination, the aggregate face value purchased by each, and any other information as the commissioner requires to enforce the collection and distribution of all taxes imposed under section 5743.024 of the Revised Code, and deliver it to the commissioner. The treasurer of state shall be accountable for all stamps received and unsold. The stamps shall be sold and accounted for at their face value, except the commissioner shall, by rule certified to the treasurer of state, authorize the sale of stamps and meter impressions to wholesale or retail dealers in this state, or to wholesale dealers outside this state, at a discount of not less than ~~three one~~ one and ~~six-tenths~~ eight-tenths per cent or more than ten per cent of their face value, as a commission for affixing and canceling the stamps or meter impressions.

The tax commissioner, by rule certified to the treasurer of state, shall authorize the delivery of stamps and meter impressions to wholesale and retail dealers in this state and to wholesale dealers outside this state on credit when the purchaser files with the commissioner a bond to the state in the amount and in the form prescribed by the commissioner, and with surety to the

As Reported by the Committee of Conference

satisfaction of the treasurer of state, conditioned on payment to the treasurer of state within thirty days for stamps or meter impressions delivered within that time. The tax commissioner shall limit delivery of stamps and meter impressions on credit to the period running from the first day of July of the fiscal year until the first day of the following May. Any discount allowed as a commission for affixing and canceling stamps or meter impressions shall be allowed with respect to sales of stamps and meter impressions on credit.

The treasurer of state shall redeem and pay for any destroyed, unused, or spoiled tax stamps and any unused meter impressions at their net value, and he shall refund to wholesale dealers the net amount of state and county taxes paid erroneously or paid on cigarettes which have been sold in interstate or foreign commerce or which have become unsalable, and the net amount of county taxes that were paid on cigarettes that have been sold at retail or for retail sale outside a taxing county. An application for a refund of tax shall be filed with the tax commissioner, on the form prescribed by the commissioner for that purpose, within three years from the date the tax stamps are destroyed or spoiled, from the date of the erroneous payment, or from the date that cigarettes on which taxes have been paid have been sold in interstate or foreign commerce or have become unsalable. On the filing of the application the commissioner shall determine the amount of refund due payable from receipts of the state tax, and, if applicable, payable from receipts of a county tax and certify such amounts to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. When a refund is granted for payment of an illegal or erroneous assessment issued by the department, the refund shall include interest on the amount of the refund from the date of the

overpayment. The interest shall be computed at the rate per annum 166
prescribed by section 5703.47 of the Revised Code. 167

Sec. 5747.058. (A) A refundable income tax credit granted by 6691
the tax credit authority under section 122.17 of the Revised Code 6692
may be claimed under this chapter, in the order required under 6693
section 5747.98 of the Revised Code. For purposes of making tax 6694
payments under this chapter, taxes equal to the amount of the 6695
refundable credit shall be considered to be paid to this state on 6696
the first day of the taxable year. The refundable credit shall not 6697
be claimed for any taxable years ending with or following the 6698
calendar year in which a relocation of employment positions occurs 6699
in violation of an agreement entered into under section 122.171 of 6700
the Revised Code. 6701

(B) A nonrefundable income tax credit granted by the tax 6702
credit authority under section 122.171 of the Revised Code may be 6703
claimed under this chapter, in the order required under section 6704
5747.98 of the Revised Code. 6705

Sec. 5747.13. (A) If any employer collects the tax imposed by 6706
section 5747.02 or under Chapter 5748. of the Revised Code and 6707
fails to remit the tax as required by law, or fails to collect the 6708
tax, the employer is personally liable for any amount collected 6709
which the employer fails to remit, or any amount which the 6710
employer fails to collect. If any taxpayer fails to file a return 6711
or fails to pay the tax imposed by section 5747.02 or under 6712
Chapter 5748. of the Revised Code, the taxpayer is personally 6713
liable for the amount of the tax. 6714

If any employer, taxpayer, or qualifying entity required to 6715
file a return under this chapter fails to file the return within 6716
the time prescribed, files an incorrect return, fails to remit the 6717
full amount of the taxes due for the period covered by the return, 6718
or fails to remit any additional tax due as a result of a 6719

reduction in the amount of the credit allowed under division (B) 6720
of section 5747.05 of the Revised Code together with interest on 6721
the additional tax within the time prescribed by that division, 6722
the tax commissioner may make an assessment against any person 6723
liable for any deficiency for the period for which the return is 6724
or taxes are due, based upon any information in the commissioner's 6725
possession. 6726

An assessment issued against either the employer or the 6727
taxpayer pursuant to this section shall not be considered an 6728
election of remedies or a bar to an assessment against the other 6729
for failure to report or pay the same tax. No assessment shall be 6730
issued against any person if the tax actually has been paid by 6731
another. 6732

No assessment shall be made or issued against an employer, 6733
taxpayer, or qualifying entity more than four years after the 6734
final date the return subject to assessment was required to be 6735
filed or the date the return was filed, whichever is later. 6736
However, the commissioner may assess any balance due as the result 6737
of a reduction in the credit allowed under division (B) of section 6738
5747.05 of the Revised Code, including applicable penalty and 6739
interest, within four years of the date on which the taxpayer 6740
reports a change in either the portion of the taxpayer's adjusted 6741
gross income subjected to an income tax or tax measured by income 6742
in another state or the District of Columbia or the amount of 6743
liability for an income tax or tax measured by income to another 6744
state or the District of Columbia, as required by division (B)(3) 6745
of section 5747.05 of the Revised Code. Such time limits may be 6746
extended if both the employer, taxpayer, or qualifying entity and 6747
the commissioner consent in writing to the extension or if an 6748
agreement waiving or extending the time limits has been entered 6749
into pursuant to section 122.171 of the Revised Code. Any such 6750
extension shall extend the four-year time limit in division (B) of 6751

section 5747.11 of the Revised Code for the same period of time. 6752
There shall be no bar or limit to an assessment against an 6753
employer for taxes withheld from employees and not remitted to the 6754
state, against an employer, taxpayer, or qualifying entity that 6755
fails to file a return subject to assessment as required by this 6756
chapter, or against an employer, taxpayer, or qualifying entity 6757
that files a fraudulent return. 6758

The commissioner shall give the party assessed written notice 6759
of the assessment as provided in section 5703.37 of the Revised 6760
Code. 6761

(B) Unless the party to whom the notice of assessment is 6762
directed files with the commissioner within sixty days after 6763
service of the notice of assessment, either personally or by 6764
certified mail, a petition for reassessment in writing, signed by 6765
the party assessed, or by the party's authorized agent having 6766
knowledge of the facts and makes payment of the portion of the 6767
assessment required by division (E) of this section, the 6768
assessment shall become final, and the amount of the assessment 6769
shall be due and payable from the party assessed to the 6770
commissioner with remittance made payable to the treasurer of 6771
state. The petition shall indicate the objections of the party 6772
assessed, but additional objections may be raised in writing if 6773
received prior to the date shown on the final determination by the 6774
commissioner. 6775

Unless the petitioner waives a hearing, the commissioner 6776
shall assign a time and place for the hearing on the petition and 6777
notify the petitioner of the time and place of the hearing by 6778
personal service or certified mail, but the commissioner may 6779
continue the hearing from time to time if necessary. 6780

The commissioner may make such correction to an assessment as 6781
the commissioner finds proper. The commissioner shall serve a copy 6782
of a final determination on the petitioner by personal service or 6783

certified mail, and the commissioner's decision in the matter 6784
shall be final, subject to appeal as provided in section 5717.02 6785
of the Revised Code. Only objections decided on the merits by the 6786
board of tax appeals or a court shall be given collateral estoppel 6787
or res judicata effect in considering an application for refund of 6788
amounts paid pursuant to the assessment. 6789

(C) After an assessment becomes final, if any portion of the 6790
assessment remains unpaid, including accrued interest, a certified 6791
copy of the commissioner's entry making the assessment final may 6792
be filed in the office of the clerk of the court of common pleas 6793
in the county in which the employer's, taxpayer's, or qualifying 6794
entity's place of business is located or the county in which the 6795
party assessed resides. If the party assessed is not a resident of 6796
this state, the certified copy of the entry may be filed in the 6797
office of the clerk of the court of common pleas of Franklin 6798
county. 6799

Immediately upon the filing of the entry, the clerk shall 6800
enter a judgment against the party assessed in the amount shown on 6801
the entry. The judgment shall be filed by the clerk in one of two 6802
loose-leaf books, one entitled "special judgments for state and 6803
school district income taxes," and the other entitled "special 6804
judgments for qualifying entity taxes." The judgment shall have 6805
the same effect as other judgments. Execution shall issue upon the 6806
judgment upon the request of the tax commissioner, and all laws 6807
applicable to sales on execution shall apply to sales made under 6808
the judgment. 6809

The portion of the assessment not paid within sixty days 6810
after the assessment was issued shall bear interest at the rate 6811
per annum prescribed by section 5703.47 of the Revised Code from 6812
the day the tax commissioner issues the assessment until it is 6813
paid. Interest shall be paid in the same manner as the tax and may 6814
be collected by the issuance of an assessment under this section. 6815

6816
(D) All money collected under this section shall be 6817
considered as revenue arising from the taxes imposed by this 6818
chapter or Chapter 5733. or 5748. of the Revised Code, as 6819
appropriate. 6820

(E) The portion of an assessment which must be paid upon the 6821
filing of a petition for reassessment shall be as follows: 6822

(1) If the sole item objected to is the assessed penalty or 6823
interest, payment of the assessment, including interest but not 6824
penalty, is required; 6825

(2) If the taxpayer or qualifying entity that is assessed 6826
failed to file, prior to the date of issuance of the assessment, 6827
the annual return or report required by section 5747.08 or 5747.42 6828
of the Revised Code, any amended return or amended report required 6829
by section 5747.10 or 5747.45 of the Revised Code for the taxable 6830
year at issue, or any report required by division (B) of section 6831
5747.05 of the Revised Code to indicate a reduction in the amount 6832
of the credit provided under that division, payment of the 6833
assessment, including interest but not penalty, is required, 6834
except as otherwise provided under division (E)(6) or (7) of this 6835
section; 6836

(3) If the employer assessed had not filed, prior to the date 6837
of issuance of the assessment, the annual return required by 6838
division (E)(2) of section 5747.07 of the Revised Code covering 6839
the period at issue, payment of the assessment, including interest 6840
but not penalty, is required; 6841

(4) If the taxpayer or qualifying entity that is assessed 6842
filed, prior to the date of issuance of the assessment, the annual 6843
return or report required by section 5747.08 or 5747.42 of the 6844
Revised Code, all amended returns or reports required by section 6845
5747.10 or 5747.45 of the Revised Code for the taxable year at 6846

issue, and all reports required by division (B) of section 5747.05 6847
of the Revised Code to indicate a reduction in the amount of the 6848
credit provided under that division, and a balance of the taxes 6849
shown due on the returns or reports as computed on the returns or 6850
reports remains unpaid, payment of only that portion of the 6851
assessment representing the unpaid balance of tax and interest is 6852
required; 6853

(5) If the employer assessed filed, prior to the date of 6854
issuance of the assessment, the annual return required by division 6855
(E)(2) of section 5747.07 of the Revised Code covering the period 6856
at issue, and a balance of the taxes shown due on the return as 6857
computed on the return remains unpaid, payment of only that 6858
portion of the assessment representing the unpaid balance of tax 6859
and interest is required; 6860

(6) In the case of a party assessed as a qualifying entity 6861
subject to the tax levied under section 5733.41 or 5747.41 of the 6862
Revised Code, if the party does not dispute that it is a 6863
qualifying entity subject to that tax but claims the protections 6864
of section 101 of Public Law 86-272, 73 Stat. 555, 15 U.S.C.A. 6865
381, as amended, no payment is required; 6866

(7) In the case of a party assessed as a qualifying entity 6867
subject to the tax levied under section 5733.41 or 5747.41 of the 6868
Revised Code, if the party does dispute that it is a qualifying 6869
entity subject to that tax, no payment is required; 6870

(8) If none of the conditions specified in divisions (E)(1) 6871
to (7) of this section apply, no payment is required. 6872

(F) Notwithstanding the fact that a petition for reassessment 6873
is pending, the petitioner may pay all or a portion of the 6874
assessment that is the subject of the petition. The acceptance of 6875
a payment by the treasurer of state does not prejudice any claim 6876
for refund upon final determination of the petition. 6877

6878
6879 If upon final determination of the petition an error in the
6880 assessment is corrected by the commissioner, upon petition so
6881 filed or pursuant to a decision of the board of tax appeals or any
6882 court to which the determination or decision has been appealed, so
6883 that the amount due from the party assessed under the corrected
6884 assessment is less than the portion paid, there shall be issued to
6885 the petitioner or to the petitioner's assigns or legal
6886 representative a refund in the amount of the overpayment as
6887 provided by section 5747.11 of the Revised Code, with interest on
6888 that amount as provided by such section, subject to section
6889 5747.12 of the Revised Code.

6890 **Sec. 5747.98.** (A) To provide a uniform procedure for
6891 calculating the amount of tax due under section 5747.02 of the
6892 Revised Code, a taxpayer shall claim any credits to which the
6893 taxpayer is entitled in the following order:

6894 (1) The retirement income credit under division (B) of
6895 section 5747.055 of the Revised Code;

6896 (2) The senior citizen credit under division (C) of section
6897 5747.05 of the Revised Code;

6898 (3) The lump sum distribution credit under division (D) of
6899 section 5747.05 of the Revised Code;

6900 (4) The dependent care credit under section 5747.054 of the
6901 Revised Code;

6902 (5) The lump sum retirement income credit under division (C)
6903 of section 5747.055 of the Revised Code;

6904 (6) The lump sum retirement income credit under division (D)
6905 of section 5747.055 of the Revised Code;

6906 (7) The lump sum retirement income credit under division (E)
6907 of section 5747.055 of the Revised Code;

- (8) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code; 6908
6909
- (9) The campaign contribution credit under section 5747.29 of the Revised Code; 6910
6911
- (10) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code; 6912
6913
- (11) The joint filing credit under division (G) of section 5747.05 of the Revised Code; 6914
6915
- (12) The nonresident credit under division (A) of section 5747.05 of the Revised Code; 6916
6917
- (13) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code; 6918
6919
- (14) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code; 6920
6921
6922
- (15) The credit for employers that reimburse employee child day-care expenses under section 5747.36 of the Revised Code; 6923
6924
- (16) The credit for adoption of a minor child under section 5747.37 of the Revised Code; 6925
6926
- (17) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code; 6927
6928
- (18) The job retention credit under division (B) of section 5747.058 of the Revised Code; 6929
6930
- (19) The credit for manufacturing investments under section 5747.051 of the Revised Code; 6931
6932
- ~~(19)~~(20) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code; 6933
6934
6935
- ~~(20)~~(21) The second credit for purchases of new manufacturing 6936

machinery and equipment and the credit for using Ohio coal under 6937
section 5747.31 of the Revised Code; 6938

~~(21)~~(22) The job training credit under section 5747.39 of the 6939
Revised Code; 6940

~~(22)~~(23) The enterprise zone credit under section 5709.66 of 6941
the Revised Code; 6942

~~(23)~~(24) The credit for the eligible costs associated with a 6943
voluntary action under section 5747.32 of the Revised Code; 6944

~~(24)~~(25) The credit for employers that establish on-site 6945
child day-care centers under section 5747.35 of the Revised Code; 6946

~~(25)~~(26) The credit for purchases of qualifying grape 6947
production property under section 5747.28 of the Revised Code; 6948

~~(26)~~(27) The export sales credit under section 5747.057 of 6949
the Revised Code; 6950

~~(27)~~(28) The credit for research and development and 6951
technology transfer investors under section 5747.33 of the Revised 6952
Code; 6953

~~(28)~~(29) The enterprise zone credits under section 5709.65 of 6954
the Revised Code; 6955

~~(29)~~(30) The refundable jobs creation credit under division 6956
(A) of section 5747.058 of the Revised Code; 6957

~~(30)~~(31) The refundable credit for taxes paid by a qualifying 6958
entity granted under section 5747.059 of the Revised Code; 6959
6960

~~(31)~~(32) The refundable credits for taxes paid by a 6961
qualifying pass-through entity granted under division (J) of 6962
section 5747.08 of the Revised Code. 6963

(B) For any credit, except the refundable credits enumerated 6964
in divisions (A)~~(29)~~, (30), ~~and~~ (31), and (32) of this section and 6965

the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5923.05. (A)(1) Permanent public employees who are members of the Ohio organized militia or members of other reserve components of the armed forces of the United States, including the Ohio national guard, are entitled to leave of absence from their respective positions without loss of pay for the time they are performing service in the uniformed services, for periods of up to one month, for each calendar year in which they are performing service in the uniformed services.

(2) As used in this section:

(a) "Calendar year" means the year beginning on the first day of January and ending on the last day of December.

(b) "Month" means twenty-two eight-hour work days or one hundred seventy-six hours within one calendar year.

(c) "Permanent public employees" and "uniformed services" have the same meanings as in section 5903.01 of the Revised Code.

(d) "State agency" means any department, bureau, board, commission, office, or other organized body established by the constitution or laws of this state for the exercise of any function of state government, the general assembly, all legislative agencies, the supreme court, the court of claims, and the state-supported institutions of higher education.

(B) Except as otherwise provided in division (D) of this

section, any permanent public employee who is employed by a
political subdivision ~~and~~, who is entitled to the leave provided
under division (A) of this section, ~~and~~ who is called or ordered
to the uniformed services for longer than a month, for each
calendar year in which the employee performed service in the
uniformed services, because of an executive order issued by the
president of the United States ~~or~~, because of an act of congress,
or because of an order to perform duty issued by the governor
pursuant to section 5919.29 of the Revised Code is entitled,
during the period designated in the order or act, to a leave of
absence and to be paid, during each monthly pay period of that
leave of absence, the lesser of the following:

(1) The difference between the permanent public employee's
gross monthly wage or salary as a permanent public employee and
the sum of the permanent public employee's gross uniformed pay and
allowances received that month;

(2) Five hundred dollars.

(C) Except as otherwise provided in division (D) of this
section, any permanent public employee who is employed by a state
agency ~~and~~, who is entitled to the leave provided under division
(A) of this section, ~~and~~ who is called or ordered to the uniformed
services for longer than a month, for each calendar year in which
the employee performed service in the uniformed services, because
of an executive order issued by the president of the United States
~~or~~, because of an act of congress, or because of an order to
perform duty issued by the governor pursuant to section 5919.29 of
the Revised Code is entitled, during the period designated in the
order or act, to a leave of absence and to be paid, during each
monthly pay period of that leave of absence, the difference
between the permanent public employee's gross monthly wage or
salary as a permanent public employee and the sum of the permanent
public employee's gross uniformed pay and allowances received that

month. 1328

(D) No permanent public employee shall receive payments under 1329
division (B) or (C) of this section if the sum of the permanent 1330
public employee's gross uniformed pay and allowances received in a 1331
pay period exceeds the employee's gross wage or salary as a 1332
permanent public employee for that period or if the permanent 1333
public employee is receiving pay under division (A) of this 1334
section. 1335

(E) Any political subdivision of the state, as defined in 1336
section 2744.01 of the Revised Code, may elect to pay any of its 1337
permanent public employees who are entitled to the leave provided 1338
under division (A) of this section and who are called or ordered 1339
to the uniformed services for longer than one month, for each 1340
calendar year in which the employee performed service in the 1341
uniformed services, because of an executive order issued by the 1342
president or an act of congress, such payments, in addition to 1343
those payments required by division (B) of this section, as may be 1344
authorized by the legislative authority of the political 1345
subdivision. 1346

(F) Each permanent public employee who is entitled to leave 1347
provided under division (A) of this section shall submit to the 1348
permanent public employee's appointing authority the published 1349
order authorizing the call or order to the uniformed services or a 1350
written statement from the appropriate military commander 1351
authorizing that service, prior to being credited with that leave. 1352
1353

(G) Any permanent public employee of a political subdivision 1354
whose employment is governed by a collective bargaining agreement 1355
with provision for the performance of service in the uniformed 1356
services shall abide by the terms of that collective bargaining 1357
agreement with respect to the performance of that service, except 1358
that no collective bargaining agreement may afford fewer rights 1359

and benefits than are conferred under this section. 1360

Sec. 5923.051. Notwithstanding sections 1751.54, 3923.381, 1361
and 3923.382 of the Revised Code, the state and any agency, 1362
authority, commission, or board of the state, at the request of 1363
any person who is employed by the state or any of those entities 1364
who is called or ordered to ~~active~~ duty as described in division 1365
(~~B~~)(C) of section 5923.05 of the Revised Code, or at the request 1366
of the spouse or dependent of such a person, shall continue or 1367
reactivate the health, medical, hospital, dental, vision, and 1368
surgical benefits coverage of the person, whether provided by an 1369
insurance company, health insuring corporation, or other health 1370
plan or entity, for the duration of the time the person is on 1371
~~active~~ duty as described in that division. The person, or the 1372
spouse or dependent of the person, who requests the continuation 1373
or reactivation of the coverage and the employing state or state 1374
entity are each liable for payment of the same costs for the 1375
coverage as if the person were not on a leave of absence. 1376

Section 2. That existing sections 103.144, 103.145, 103.146, 6974
122.15, 145.01, 149.07, 166.03, 183.02, 317.33, 742.01, 1309.528, 6975
1333.11, 3307.01, 3309.01, 3313.37, 3313.375, 3318.31, 3353.07, 6976
3353.11, 3770.02, 3770.03, 3770.06, 5111.34, 5111.872, 5123.043, 6977
5123.046, 5123.048, 5123.049, 5123.0411, 5126.01, 5126.02, 6978
5126.021, 5126.033, 5126.035, 5126.036, 5126.042, 5126.046, 6979
5126.05, 5126.054, 5126.055, 5126.056, 5126.06, 5126.14, 5126.15, 6980
5126.17, 5126.18, 5126.19, 5126.221, 5126.357, 5505.01, 5705.44, 6981
5709.12, 5709.121, 5709.17, 5709.40, 5709.411, 5709.43, 5709.73, 6982
5709.74, 5709.75, 5709.77, 5709.78, 5709.79, 5709.80, 5709.81, 6983
5725.14, 5725.24, 5725.25, 5725.26, 5733.056, 5733.06, 5733.0610, 6984
5733.09, 5733.11, 5733.98, 5739.01, 5741.01, 5743.05, 5747.058,
5747.13, 5747.98, 5923.05, 5923.051 and section 103.147 of the
Revised Code are hereby repealed.

Section 3. On the recommendation of the Director of Mental 6985
Retardation and Developmental Disabilities, the Director of Job 6986
and Family Services may seek one or more Medicaid waivers pursuant 6987
to section 5111.87 of the Revised Code including a waiver under 6988
which home and community-based services are provided in the form 6989
of family support services programs established by county boards 6990
of mental retardation and developmental disabilities under section 6991
5126.11 of the Revised Code. Notwithstanding division (A) of 6992
section 5111.873 of the Revised Code, the Director of Job and 6993
Family Services is not required to adopt rules under that section 6994
by the effective date of the waiver under which home and 6995
community-based services are provided in the form of family 6996
support services programs. 6997

Section 4. As used in this section, "Residential Facility 6998
Waiver transition" means the transition, due to the upcoming 6999
termination of the Residential Facility Waiver, of individuals who 7000
receive services under the Residential Facility Waiver to other 7001
home and community-based services as defined in section 5126.01 of 7002
the Revised Code. 7003

Consistent with the Medicaid redesign plan that the 7004
Department of Job and Family Services submitted to the Centers for 7005
Medicaid and Medicare Services to comply with an audit conducted 7006
by the centers, the Department of Mental Retardation and 7007
Developmental Disabilities shall develop a plan to implement the 7008
Residential Facilities Waiver transition. The plan shall identify 7009
how the needs of the individuals to be transferred are to be met, 7010
including ways that the Residential Facility Waiver's service 7011
capacity can be reconfigured on a statewide, regional, or county 7012
specific basis. The plan shall also specify the date, which shall 7013
not be later than September 1, 2002, that the moratorium 7014
established under Section 5 of this act is to terminate. The 7015

Department of Mental Retardation and Developmental Disabilities 7016
shall complete the plan in time for the Executive Branch Committee 7017
on Medicaid Redesign and Expansion MRDD Services, created by Am. 7018
Sub. H.B. 94 of the 124th General Assembly, to review the plan and 7019
submit recommended changes to the Department by May 31, 2002. The 7020
Committee shall finish its review and submit suggested changes to 7021
the Department of Mental Retardation and Developmental 7022
Disabilities not later than that date. Not later than sixty days 7023
after the Committee submits suggested changes to the Department, 7024
the Department and the Department of Job and Family Services shall 7025
establish protocols for county boards of mental retardation and 7026
developmental disabilities and private and government entities 7027
under contract with a county board to provide services under the 7028
Residential Facility Waiver to follow in implementing the plan. 7029

The Department of Mental Retardation and Developmental 7030
Disabilities shall identify costs associated with the plan 7031
developed under this section and sources of funding available to 7032
pay the costs. 7033

Not later than February 8, 2002, each county board of mental 7034
retardation and developmental disabilities that has a contract 7035
with one or more private or government entities to provide 7036
services under the Residential Facility Waiver shall jointly 7037
develop a plan with the providers for the implementation of the 7038
Residential Facility Waiver transition as concerns individuals who 7039
reside in a residential facility with a license capacity of five 7040
or fewer beds. The boards and providers shall develop the plan in 7041
accordance with a protocol the Departments of Job and Family 7042
Services and Mental Retardation and Developmental Disabilities 7043
shall jointly establish. 7044

Section 5. (A) Notwithstanding Chapter 5111. of the Revised 7045
Code, until the date specified in the plan that the Department of 7046

Mental Retardation and Developmental Disabilities develops under 7047
Section 4 of this act and except as provided in division (B) of 7048
this section, the number of intermediate care facility for the 7049
mentally retarded beds eligible for Medicaid payment shall not be 7050
higher than the number of such beds eligible for such payment on 7051
the effective date of this section. 7052

(B) The Department of Job and Family Services may issue one 7053
or more waivers of division (A) of this section in the event that 7054
an emergency, as determined by the Department, exists. In 7055
determining whether to issue a waiver, the Department of Job and 7056
Family Services shall consider the recommendation of the 7057
Department of Mental Retardation and Developmental Disabilities. 7058

Section 6. Notwithstanding Am. Sub. H.B. 94 of the 124th 7059
General Assembly, the Department of Mental Retardation and 7060
Developmental Disabilities shall not take action against a county 7061
board of mental retardation and developmental disabilities 7062
authorized by that act on the basis that the county board 7063
submitted the last component of the plan required by section 7064
5126.054 of the Revised Code after November 1, 2001. The 7065
Department shall take action against the county board under 7066
division (B) of section 5126.056 of the Revised Code if the county 7067
board fails to submit that component to the Department by July 1, 7068
2002. 7069

Section 7. (A) The Joint Council on Mental Retardation and 7
Developmental Disabilities created under section 101.37 of the 8
Revised Code shall do all of the following regarding the tax 9
equity program: 10

(1) Review documents submitted by the Ohio Department of 11
Mental Retardation and Developmental Disabilities, Ohio 12
Superintendents of County Boards of Mental Retardation and 13

Developmental Disabilities, Ohio Association of County Boards of
Mental Retardation and Developmental Disabilities, and other
entities to the Council regarding the issue of a property tax
equalization program for adults only as provided by Am. Sub. H.B.
94 of the 124th General Assembly;

(2) Review the concept of Medicaid comparability of care,
adult services expenditures within county boards of mental
retardation and developmental disabilities, the concept of tax
capacity and targeting property taxes to adult services, and the
necessity to reduce the disparity in capability of county boards
to provide adult services;

(3) Establish a reasonable methodology to provide tax
equalization for adult services for county boards that are below
the average on property tax yield.

(B) The Council shall prepare a report on its
responsibilities under division (A) of this section. The report
shall include the Council's findings and recommended actions. The
Council shall submit the report to the Speaker of the House of
Representatives, President of the Senate, and Governor not later
than February 1, 2002.

Section 8. Notwithstanding sections 5126.16 to 5126.18 of the
Revised Code and Section 75.02 of Am. Sub. H.B. 94 of the 124th
General Assembly, the Department of Mental Retardation and
Developmental Disabilities shall do both of the following:

(A) Use \$6,500,000 in fiscal year 2002 and \$13,000,000 in
fiscal year 2003 of the appropriation item 322-501, County Boards
Subsidies, in Section 75.02 of Am. Sub. H.B. 94 of the 124th
General Assembly, to fund the tax equalization program in
accordance with the law governing the program as revised by the
General Assembly following the Joint Council on Mental Retardation
and Developmental Disabilities' submission of the report required

by this act regarding the tax equity program; 7127

(B) Make payments under the tax equity program for fiscal 7128
year 2002 after the General Assembly revises the law governing the 7129
program following the Council's submission of the report rather 7130
than on or before September 30, 2001. 7131

Section 9. (A) Section 307.6910 of the Revised Code is hereby 7132
repealed, effective July 1, 2007. 7133

(B) The amendments made to sections 5709.40, 5709.411, 7134
5709.43, 5709.73, 5709.74, 5709.75, 5709.77, 5709.78, 5709.79, 7135
5709.80, and 5709.81 of the Revised Code by this act do not affect 7136
ordinances adopted by the legislative authority of a municipal 7137
corporation or resolutions adopted by a board of township trustees 7138
or a board of county commissioners under those sections prior to 7139
the effective date of this act. 7140

Section 10. Not later than January 30, 2007, the Director of 7141
Development shall prepare and deliver an evaluation of the 7142
programs and laws contained in section 122.171, section 307.6910, 7143
division (C) of section 5709.40, division (C) of section 5709.73, 7144
division (B) of section 5709.78, and division (C) of section 7145
5733.06, as it pertains to eligible corporations, of the Revised 7146
Code, as amended by this act; Section 41.15 of Am. Sub. H.B. 94 of 7147
the 124th General Assembly, as amended by this act, and Section 7148
63.09 of Am. Sub. H.B. 94 of the 124th General Assembly, as 7149
amended by this act, as they pertain to the Rural Development 7150
Initiative Fund and the Appalachian Technology and Workforce 7151
Development program; and section 122.602 of the Revised Code, as 7152
enacted by this act. The report shall be delivered not later than 7153
January 30, 2007, to the President of the Senate, the Speaker of 7154
the House of Representatives, the chairpersons of the standing 7155
committees to which economic development legislation is generally 7156

referred, and the Governor. The evaluation shall cover the time 7157
period from the effective date of this section to December 31, 7158
2006. The Director shall include a cumulative summary over the 7159
time period of data compiled from any annual or other reports 7160
required by the laws pertaining to the sections named above, and 7161
any additional information that the Director deems necessary. The 7162
Director shall analyze the effectiveness of the programs and 7163
provide a recommendation as to whether the programs should be 7164
continued, and whether any modifications are necessary. 7165

The Department of Taxation shall provide the necessary data 7166
concerning the operation of division (C) of section 5733.06 of the 7167
Revised Code as it pertains to eligible corporations. The 7168
Department shall forward this information to the Director of 7169
Development for inclusion in the report. This information shall 7170
include the number of eligible corporations that have claimed an 7171
exemption, the amount of tax revenue foregone because of the 7172
exemptions, and any other information deemed necessary by the 7173
Department of Taxation or the Director of Development. 7174

The Department of Taxation shall provide information to the 7175
Director of Development upon the Director's request concerning the 7176
administration of section 122.171 of the Revised Code as enacted 7177
by this act. 7178

Not later than December 31, 2006, a board of county 7179
commissioners that enters into an agreement under section 307.6910 7180
of the Revised Code during the time period covered by the report 7181
shall provide the Director of Development with all necessary 7182
information, as determined by the Director, concerning the 7183
agreement. 7184

Section 11. That Section 11 of Am. Sub. S.B. 50 of the 121st 2
General Assembly be amended to read as follows: 3

"Sec. 11. The removal of former divisions (E) and (F) of section 3702.52 of the Revised Code by Sections 1 and 2 of ~~this act~~ Am. Sub. S.B. 50 of the 121st General Assembly does not release the holders of certificates of need issued under those divisions from complying with any conditions on which the granting of the certificates of need was based, including the requirement of former division (E)(6) of that section that the holders not enter into provider agreements under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, for at least ten years following initial licensure of the long-term care facilities for which the certificates were granted.

The repeal of section 3702.55 of the Revised Code by Section 2 of ~~this act~~ Am. Sub. S.B. 50 of the 121st General Assembly does not release the holders of certificates of need issued under that section from complying with any conditions on which the granting of the certificates of need was based, ~~including other than the requirements~~ requirement of division (A)(6) of that section that the holders not seek certification under Title XVIII ~~or XIX~~ of the "Social Security Act" for beds recategorized under the certificates, ~~and. That repeal also does not eliminate the requirement~~ that the Director of Health revoke the licensure of the beds under Chapter 3721. of the Revised Code if a person to which their ownership is transferred fails, as required by division (A)(6) of the repealed section, to file within ten days after the transfer a sworn statement not to seek ~~such~~ certification under Title XIX of the "Social Security Act" for beds recategorized under the certificates of need.

The repeal of section 3702.56 of the Revised Code by Section 2 of ~~this act~~ Am. Sub. S.B. 50 of the 121st General Assembly does not release the holders of certificates of need issued under that section from complying with any conditions on which the granting

of the certificates of need was based." 36

Section 12. That existing Section 11 of Am. Sub. S.B. 50 of 37
the 121st General Assembly is hereby repealed. 38

Section 13. That Section 3 of Am. Sub. H.B. 440 of the 121st 7185
General Assembly, as most recently amended by Am. Sub. H.B. 94 of 7186
the 124th General Assembly, be amended to read as follows: 7187

"**Sec. 3.** Sections 122.23, 122.24, 122.25, 122.26, and 122.27 7188
of the Revised Code are hereby repealed, effective July 1, ~~2003~~ 7189
2007." 7190

Section 14. That existing Section 3 of Am. Sub. H.B. 440 of 7191
the 121st General Assembly, as most recently amended by Am. Sub. 7192
H.B. 94 of the 124th General Assembly, is hereby repealed. 7193

Section 15. That Section 5.02 of Sub. H.B. 73 of the 124th 7194
General Assembly be amended to read as follows: 7195

"**Sec. 5.02. ENFORCEMENT** 7196

State Highway Safety Fund Group 7197

036 764-033 Minor Capital Projects \$ 2,531,302 \$ 1,732,358 7198

036 764-321 Operating Expense - \$ 185,264,130 \$ 195,245,402 7199

Highway Patrol

036 764-605 Motor Carrier \$ 189,309 \$ 192,411

Enforcement Expense

83C 764-630 Contraband, \$ 603,296 \$ 622,894 7200

Forfeiture, Other

83F 764-657 Law Enforcement Auto. \$ 5,050,151 \$ 5,277,569 7201

Data System

83G 764-633 OMVI Fines \$ 781,051 \$ 820,927 7202

831 764-610 Patrol/Federal \$ 2,210,831 \$ 2,336,609 7203

831	764-659	Transportation	\$	3,919,153	\$	4,087,361	7204
		Enforcement - Federal					
837	764-602	Turnpike Policing	\$	8,803,786	\$	9,306,325	7205
838	764-606	Patrol Reimbursement	\$	216,690	\$	222,108	7206
840	764-607	State Fair Security	\$	1,306,015	\$	1,384,660	7207
840	764-617	Security and	\$	4,484,313	\$	4,749,103	7208
		Investigations					
840	764-626	State Fairgrounds	\$	783,175	\$	829,631	7209
		Police Force					
840	764-667	Security Assessment	\$	152,324	\$	160,982	7210
841	764-603	Salvage and Exchange -	\$	1,243,025	\$	1,274,101	7211
		Highway Patrol					
TOTAL HSF State Highway Safety							7212
Fund Group			\$	217,349,242	\$	228,050,030	7213
				<u>217,538,551</u>		<u>228,242,441</u>	
General Services Fund Group							7214
4S2	764-660	MARCS Maintenance	\$	241,811	\$	227,222	7215
TOTAL GSF General Services							7216
Fund Group			\$	241,811	\$	227,222	7217
TOTAL ALL BUDGET FUND GROUPS -							7218
Enforcement			\$	217,591,053	\$	228,277,252	7219
				<u>217,780,362</u>		<u>228,469,663</u>	
COLLECTIVE BARGAINING INCREASES							7220
Notwithstanding division (D) of section 127.14 and division							7221
(B) of section 131.35 of the Revised Code, except for the General							7222
Revenue Fund, the Controlling Board may, upon the request of							7223
either the Director of Budget and Management, or the Department of							7224
Public Safety with the approval of the Director of Budget and							7225
Management, increase appropriations for any fund, as necessary for							7226
the Department of Public Safety, to assist in paying the costs of							7227
increases in employee compensation that have occurred pursuant to							7228
collective bargaining agreements under Chapter 4117. of the							7229

Revised Code and, for exempt employees, under section 124.152 of
the Revised Code.

PATROL REIMBURSEMENT FUND CASH TRANSFER

On the effective date of this amendment or as soon as
possible thereafter, the Director of Budget and Management shall
transfer \$551,150.59 in cash from the Patrol Reimbursement Fund
(Fund 838) to the Turnpike Policing Fund (Fund 837). This transfer
will correct an inaccurate deposit made at the end of fiscal year
2001.

On the effective date of this amendment or as soon as
possible thereafter, the Director of Budget and Management shall
transfer up to \$189,309 in cash in fiscal year 2002 and shall
transfer up to \$192,411 in cash in fiscal year 2003 from the
Financial Responsibility Compliance (Fund 835) to the State
Highway Safety Fund (Fund 036).

Section 16. That existing Section 5.02 of Sub. H.B. 73 of the
124th General Assembly is hereby repealed.

Section 17. That Section 41 of Am. Sub. H.B. 94 of the 124th
General Assembly, as amended by Am. Sub. H.B. 3 and Am. Sub. H.B.
299, both of the 124th General Assembly, be amended to read as
follows:

"Sec. 41. DEV DEPARTMENT OF DEVELOPMENT

General Revenue Fund

GRF 195-100 Personal Services	\$	2,651,334	\$	2,920,941
GRF 195-200 Maintenance	\$	589,524	\$	601,314
GRF 195-300 Equipment	\$	108,161	\$	110,324
GRF 195-401 Thomas Edison Program	\$	20,000,000	\$	20,000,000
GRF 195-404 Small Business	\$	2,452,342	\$	2,529,843

Development

As Reported by the Committee of Conference

GRF 195-405	Minority Business Development Division	\$	2,278,888	\$	2,297,314	7252
GRF 195-406	Transitional and Permanent Housing	\$	2,770,145	\$	2,770,155	7253
GRF 195-407	Travel and Tourism	\$	6,345,500	\$	6,448,399	7254
GRF 195-408	Coal Research Development	\$	562,551	\$	585,290	7255
GRF 195-412	Business Development Grants	\$	8,033,935	\$	9,092,851	7256
GRF 195-414	First Frontier Match	\$	490,000	\$	490,000	7257
GRF 195-415	Regional Offices and Economic Development	\$	6,420,675	\$	6,735,253	7258
GRF 195-416	Governor's Office of Appalachia	\$	5,466,954	\$	5,475,126	7259
GRF 195-417	Urban/Rural Initiative	\$	980,000	\$	980,000	7260
GRF 195-422	Technology Action	\$	14,000,000	\$	14,000,000	7261
GRF 195-426	Clean Ohio Implementation	\$	448,000	\$	641,000	7262
GRF 195-431	Community Development Corporation Grants	\$	2,530,860	\$	2,530,860	7263
GRF 195-432	International Trade	\$	5,390,000	\$	5,551,700	7264
GRF 195-434	Investment in Training Grants	\$	12,500,000	\$	12,500,000	7265
GRF 195-436	Labor/Management Cooperation	\$	1,146,805	\$	1,152,752	7266
GRF 195-440	Emergency Shelter Housing Grants	\$	2,768,313	\$	2,841,441	7267
GRF 195-441	Low and Moderate Income Housing	\$	19,000,000	\$	19,000,000	7268
GRF 195-497	CDBG Operating Match					7269
	Federal	\$	5,200,00	\$	6,500,000	7270
	CDBG Operating Match	\$	6,408,56	\$	7,715,295	7272
	Total					

As Reported by the Committee of Conference

	State	\$	1,208,576	\$	1,215,295	7274
GRF 195-498	State Energy Match	\$	153,558	\$	158,548	7275
GRF 195-501	Appalachian Local	\$	453,962	\$	453,962	7276
	Development Districts					
GRF 195-502	Appalachian Regional	\$	219,912	\$	219,912	7277
	Commission Dues					
GRF 195-505	Utility Bill Credits	\$	7,350,000	\$	7,350,000	7278
GRF 195-507	Travel and Tourism	\$	1,250,000	\$	1,250,000	7279
	Grants					
GRF 195-906	Coal Research and	\$	8,971,700	\$	9,420,300	7280
	Development General					
	Obligation Debt					
	Service					
TOTAL GRF General Revenue Fund						7281
	State	\$	136,541,695	\$	139,322,580	7282
	Federal	\$	5,200,000	\$	6,500,000	7283
	GRF TOTAL	\$	142,293,695	\$	146,681,580	7284
General Services Fund Group						7286
135 195-605	Supportive Services	\$	9,038,988	\$	9,531,707	7287
136 195-621	International Trade	\$	100,000	\$	24,915	7288
685 195-636	General Reimbursements	\$	1,275,234	\$	1,323,021	7289
TOTAL GSF General Services Fund						7290
Group		\$	10,414,222	\$	10,879,643	7291
Federal Special Revenue Fund Group						7292
3K8 195-613	Community Development	\$	65,149,441	\$	65,088,961	7293
	Block Grant					
3K9 195-611	Home Energy Assistance	\$	62,000,000	\$	62,000,000	7294
	Block Grant					
3K9 195-614	HEAP Weatherization	\$	10,412,041	\$	10,412,041	7295
3L0 195-612	Community Services	\$	22,135,000	\$	22,135,000	7296
	Block Grant					
3V1 195-601	HOME Program	\$	40,000,000	\$	40,000,000	7297

As Reported by the Committee of Conference

3X3	195-619	TANF Housing Program	\$	5,200,000	\$	0	7298
308	195-602	Appalachian Regional Commission	\$	350,000	\$	350,200	7299
308	195-603	Housing and Urban Development	\$	5,000,000	\$	5,000,000	7300
308	195-605	Federal Projects	\$	7,855,501	\$	7,855,501	7301
308	195-609	Small Business Administration	\$	3,799,626	\$	3,799,626	7302
308	195-618	Energy Federal Grants	\$	2,803,560	\$	2,803,560	7303
335	195-610	Oil Overcharge	\$	8,500,000	\$	8,500,000	7304
380	195-622	Housing Development Operating	\$	4,507,212	\$	4,696,198	7305
TOTAL FED Federal Special Revenue							7306
Fund Group			\$	237,712,381	\$	232,641,087	7307
			\$				7308
State Special Revenue Fund Group							7309
4F2	195-639	State Special Projects	\$	1,052,762	\$	1,079,082	7310
4H4	195-641	First Frontier	\$	600,000	\$	650,000	7311
4S0	195-630	Enterprise Zone Operating	\$	211,900	\$	211,900	7312
4S1	195-634	Job Creation Tax Credit Operating	\$	372,700	\$	375,800	7313
4W1	195-646	Minority Business Enterprise Loan	\$	2,572,960	\$	2,580,597	7314
444	195-607	Water and Sewer Commission Loans	\$	511,000	\$	523,775	7315
445	195-617	Housing Finance Operating	\$	3,782,808	\$	3,968,184	7316
450	195-624	Minority Business Bonding Program Administration	\$	13,232	\$	13,563	7317
451	195-625	Economic Development Financing Operating	\$	2,062,451	\$	2,143,918	7318

As Reported by the Committee of Conference

5M4	195-659	Universal Service	\$	160,000,000	\$	160,000,000	7319
5M5	195-660	Energy Efficiency	\$	12,000,000	\$	12,000,000	7320
		Revolving Loan					
611	195-631	Water and Sewer	\$	15,330	\$	15,713	7321
		Administration					
617	195-654	Volume Cap	\$	200,000	\$	200,000	7322
		Administration					
646	195-638	Low and Moderate	\$	21,539,552	\$	22,103,807	7323
		Income Housing Trust					
		Fund					
TOTAL SSR State Special Revenue							7324
Fund Group			\$	204,934,695	\$	205,866,339	7325
Facilities Establishment Fund							7326
037	195-615	Facilities	\$	56,701,684	\$	58,119,226	7327
		Establishment					
4Z6	195-647	Rural Industrial Park	\$	5,000,000	\$	5,000,000	7328
		Loan					
5D1	195-649	Port Authority Bond	\$	2,500,000	\$	2,500,000	7329
		Reserves					
5D2	195-650	Urban Redevelopment	\$	10,000,000	\$	10,475,000	7330
		Loans					
5H1	195-652	Family Farm Loan	\$	2,246,375	\$	2,246,375	7331
		Guarantee					
<u>5S8</u>	<u>195-627</u>	<u>Rural Development</u>	<u>\$</u>	<u>5,000,000</u>	<u>\$</u>	<u>5,000,000</u>	7332
		<u>Initiative</u>					
<u>5S9</u>	<u>195-628</u>	<u>Capital Access Loan</u>	<u>\$</u>	<u>3,000,000</u>	<u>\$</u>	<u>3,000,000</u>	7333
		<u>Program</u>					
TOTAL 037 Facilities							7334
Establishment Fund			\$	76,448,059	\$	78,340,601	7335
				<u>84,448,059</u>		<u>86,340,601</u>	7336
Coal Research/Development Fund							7337
046	195-632	Coal Research and	\$	12,847,178	\$	13,168,357	7338

Development Fund

TOTAL 046 Coal Research/				7339
Development Fund	\$	12,847,178	\$	13,168,357
TOTAL ALL BUDGET FUND GROUPS	\$	678,898,230	\$	686,718,607
	\$	684,650,230		<u>688,218,607</u>
		<u>686,898,230</u>	"	

Section 18. That existing Section 41 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 3 and Am. Sub. H.B. 299, both of the 124th General Assembly, is hereby repealed.

Section 19. That Sections 41.15, 45, 63.25, 74.01, 74.02, 94.11, 104, and 140 of Am. Sub. H.B. 94 of the 124th General Assembly be amended to read as follows:

"Sec. 41.15. FACILITIES ESTABLISHMENT FUND

The foregoing appropriation item 195-615, Facilities Establishment (Fund 037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$1,600,000 may be transferred each fiscal year from the Facilities Establishment Fund (Fund 037) to the Economic Development Financing Operating Fund (Fund 451). The transfer is subject to Controlling Board approval pursuant to division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$3,800,000 may be transferred in each fiscal year of the biennium from the Facilities Establishment Fund (Fund 037) to the Minority Business Enterprise Loan Fund (Fund 4W1). The transfer is subject to Controlling Board approval pursuant to division (B) of section

166.03 of the Revised Code. 7368

Notwithstanding Chapter 166. of the Revised Code, up to 7369
\$5,000,000 cash may be transferred during the biennium from the 7370
Facilities Establishment Fund (Fund 037) to the Port Authority 7371
Bond Reserves Fund (Fund 5D1) for use by any port authority in 7372
establishing or supplementing bond reserve funds for any bond 7373
issuance permitted under Chapter 4582. of the Revised Code. The 7374
Director of Development shall develop program guidelines for the 7375
transfer and release of funds, including, but not limited to, a 7376
provision that a port authority shall receive not more than 7377
\$2,000,000 total from the fund. The transfer and release of funds 7378
are subject to Controlling Board approval. 7379

Notwithstanding Chapter 166. of the Revised Code, up to 7380
\$20,475,000 cash may be transferred during the biennium from the 7381
Facilities Establishment Fund (Fund 037) to the Urban 7382
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 7383
barriers to urban core redevelopment. The Director of Development 7384
shall develop program guidelines for the transfer and release of 7385
funds, including, but not limited to, the completion of all 7386
appropriate environmental assessments before state assistance is 7387
committed to a project. 7388

Notwithstanding Chapter 166. of the Revised Code, up to 7389
\$5,000,000 per fiscal year in cash may be transferred from the 7390
Facilities Establishment Fund (Fund 037) to the Rural Industrial 7391
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling 7392
Board approval pursuant to section 166.03 of the Revised Code. 7393

FAMILY FARM LOAN PROGRAM 7394

Notwithstanding Chapter 166. of the Revised Code, up to 7395
\$2,246,375 in each fiscal year shall be transferred from moneys in 7396
the Facilities Establishment Fund (Fund 037) to the Family Farm 7397
Loan Fund (Fund 5H1) in the Department of Development. These 7398

moneys shall be used for loan guarantees. The transfer is subject
to Controlling Board approval.

Financial assistance from the Family Farm Loan Fund (Fund
5H1) shall be repaid to Fund 5H1. This fund is established in
accordance with sections 166.031, 901.80, 901.81, 901.82, and
901.83 of the Revised Code.

When the Family Farm Loan Fund (Fund 5H1) ceases to exist,
all outstanding balances, all loan repayments, and any other
outstanding obligations shall revert to the Facilities
Establishment Fund (Fund 037).

RURAL DEVELOPMENT INITIATIVE FUND

(A)(1) There is hereby created in the state treasury the
Rural Development Initiative Fund (Fund 5S8). The fund shall
receive moneys from the Facilities Establishment Fund. The
Director of Development may make grants from the fund as specified
in division (A)(2) of this section to eligible applicants in
Appalachian counties and in rural counties in the state that are
designated as distressed pursuant to section 122.25 of the Revised
Code. Preference shall be given to eligible applicants located in
Appalachian counties designated as distressed by the federal
Appalachian Regional Commission. The fund shall cease to exist
after June 30, 2007. All moneys remaining in the fund after that
date shall revert to the Facilities Establishment Fund.

(2) The Director of Development shall make grants from the
Rural Development Initiative Fund only to eligible applicants who
also qualify for and receive funding under the Rural Industrial
Park Loan Program as specified in sections 122.23 to 122.27 of the
Revised Code. Eligible applicants shall use the grants for the
purposes specified in section 122.24 of the Revised Code. All
projects supported by grants from the fund are subject to Chapter
4115. of the Revised Code as specified in division (E) of section

166.02 of the Revised Code. The Director shall develop program 7430
guidelines for the transfer and release of funds. The release of 7431
grant moneys to an eligible applicant is subject to Controlling 7432
Board approval. 7433

(B) Notwithstanding Chapter 166. of the Revised Code, the 7434
Director of Budget and Management may transfer up to \$5,000,000 7435
per fiscal year in cash on an as needed basis at the request of 7436
the Director of Development from the Facilities Establishment Fund 7437
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8). 7438
The transfer is subject to Controlling Board approval pursuant to 7439
section 166.03 of the Revised Code. 7440

CAPITAL ACCESS LOAN PROGRAM 7441

The foregoing appropriation item 195-628, Capital Access Loan 7442
Program, shall be used for operating, program, and administrative 7443
expenses of the program. Funds for the Capital Access Loan Program 7444
shall be used to assist participating financial institutions in 7445
making program loans to eligible businesses that face barriers in 7446
accessing working capital and obtaining fixed asset financing. 7447

Notwithstanding Chapter 166. of the Revised Code, the 7449
Director of Budget and Management may transfer up to \$3,000,000 7450
per fiscal year in cash on an as needed basis at the request of 7451
the Director of Development from the Facilities Establishment Fund 7452
(Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The 7453
transfer is subject to Controlling Board approval pursuant to 7454
section 166.03 of the Revised Code. 7455

Sec. 45. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK 7456
COMMISSION 7457

General Revenue Fund 7458
GRF 374-100 Personal Services \$ 1,585,648 \$ 1,705,463 7459

As Reported by the Committee of Conference

GRF 374-200	Maintenance	\$	902,477	\$	891,968	7460
GRF 374-300	Equipment	\$	46,760	\$	45,313	7461
GRF 374-401	Statehouse News Bureau	\$	253,175	\$	245,344	7462
GRF 374-402	Ohio Government	\$	403,026	\$	910,296	7463
	Telecommunications					
	Studio					
GRF 374-404	Telecommunications	\$	5,239,754	\$	5,051,174	7464
	Operating Subsidy					
TOTAL GRF General Revenue Fund		\$	8,430,840	\$	8,849,558	7465
	General Services Fund Group					7466
4F3 374-603	Affiliate Services	\$	2,941,810	\$	3,067,586	7467
4T2 374-605	Government	\$	75,000	\$	150,000	7468
	Television/Telecommunications					
	Operating					
TOTAL GSF General Services						7469
Fund Group		\$	3,016,810	\$	3,217,586	7470
TOTAL ALL BUDGET FUND GROUPS		\$	11,447,650	\$	12,067,144	7471
	STATEHOUSE NEWS BUREAU					7472
	The foregoing appropriation item 374-401, Statehouse News					7473
	Bureau, shall be used solely to support the operations of the Ohio					7474
	Statehouse News Bureau.					7475
	OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO					7476
	The foregoing appropriation item 374-402, Ohio Government					7477
	Telecommunications Studio, shall be used solely to support the					7478
	operations of the Ohio Government Telecommunications Studio.					7479
	TELECOMMUNICATIONS OPERATING SUBSIDY					7480
	The foregoing appropriation item 374-404, Telecommunications					7481
	Operating Subsidy, shall be distributed by the Ohio Educational					7482
	Telecommunications Network Commission to Ohio's qualified public					7483
	educational television stations, radio reading services, and					7484
	educational radio stations to support their operations. The funds					7485

shall be distributed pursuant to an allocation developed by the 7486
Ohio Educational Telecommunications Network Commission. 7487

GOVERNMENT TELEVISION/TELECOMMUNICATIONS OPERATING 7488

Beginning on January 1, 2002, General Service Fund 4T2, 7489
Government Television/Telecommunications Operating, currently 7490
under the direction of the Capital Square Review and Advisory 7491
Board, shall be ~~under the direction of~~ transferred to the Ohio 7492
Educational Telecommunications Network Commission. The Director of 7493
Budget and Management shall transfer, by January 15, 2002, all 7494
remaining balances in General Services Fund 4T2, Government 7495
Television/Telecommunications Operating, in the Capital Square 7496
Review and Advisory Board to General Services Fund 4T2, Government 7497
Television/Telecommunications Operating, in the Ohio Educational 7498
Telecommunications Network Commission. General Services Fund 4T2, 7499
Government Television/Telecommunications Operating, is hereby 7500
created in the Ohio Educational Telecommunications Network 7501
Commission. 7502

Sec. 63.25. REFUND OF SETS PENALTY 7503

The Department of Job and Family Services shall ~~notify the~~ 7504
~~Controlling Board immediately on receipt of deposit~~ any refunds 7505
for penalties that were paid directly or indirectly by the state 7506
for the Support Enforcement Tracking System (SETS). ~~Any and all~~ 7507
~~refunds received for such penalties shall be deposited in their~~ 7508
~~entirety to the General Revenue Fund 3V6, TANF Block Grant.~~ 7509

Sec. 74.01. DIVISION OF MENTAL HEALTH - HOSPITALS 7510

General Revenue Fund 7511
GRF 334-408 Community and Hospital \$ 356,469,071 \$ 352,719,838 7512
Mental Health Services
359,469,071 372,719,838 7513
GRF 334-506 Court Costs \$ 958,791 \$ 976,652 7514

As Reported by the Committee of Conference

TOTAL GRF General Revenue Fund	\$	357,427,862	\$	353,696,490	7515
		<u>360,427,862</u>		<u>373,696,490</u>	7516
General Services Fund Group					7517
149 334-609 Hospital Rotary -	\$	10,451,492	\$	10,451,492	7518
Operating Expenses					
150 334-620 Special Education	\$	152,500	\$	152,500	7519
TOTAL GSF General Services					7520
Fund Group	\$	10,603,992	\$	10,603,992	7521
Federal Special Revenue Fund Group					7522
3A8 334-613 Federal Letter of	\$	9,000	\$	0	7523
Credit					
3B0 334-617 Elementary and	\$	202,774	\$	214,340	7524
Secondary Education					
Act					
3B1 334-635 Hospital Medicaid	\$	2,000,000	\$	2,000,000	7525
Expansion					
324 334-605 Medicaid/Medicare	\$	8,791,748	\$	9,043,700	7526
5L2 334-619 Health	\$	131,600	\$	94,869	7527
Foundation/Greater					
Cincinnati					
TOTAL FED Federal Special Revenue					7528
Fund Group	\$	11,135,122	\$	11,352,909	7529
State Special Revenue Fund Group					7530
485 334-632 Mental Health	\$	1,991,448	\$	1,989,912	7531
Operating					
692 334-636 Community Mental	\$	361,323	\$	370,356	7532
Health Board Risk Fund					
TOTAL SSR State Special Revenue					7533
Fund Group	\$	2,352,771	\$	2,360,268	7534
TOTAL ALL BUDGET FUND GROUPS	\$	381,519,747	\$	378,013,659	7535
		<u>384,519,747</u>		<u>398,013,659</u>	7536
<u>COMMUNITY AND HOSPITAL MENTAL HEALTH SERVICES</u>					7537

Of the foregoing appropriation item 334-408, Community and 7538
Hospital Mental Health Services, the appropriation increases made 7539
by the amendment in H.B. 405 of the 124th General Assembly shall 7540
be used by the state mental hospitals for operating purposes. 7541

COMMUNITY MENTAL HEALTH BOARD RISK FUND 7542

The foregoing appropriation item 334-636, Community Mental 7543
Health Board Risk Fund, shall be used to make payments pursuant to 7544
section 5119.62 of the Revised Code. 7545

Sec. 74.02. DIVISION OF MENTAL HEALTH - COMMUNITY SUPPORT 7546
SERVICES 7547

General Revenue Fund 7548

GRF 335-419 Community Medication \$ 7,682,295 \$ 7,701,549 7549
Subsidy

GRF 335-502 Community Mental \$ 38,166,674 \$ 38,166,674 7550
Health Programs

GRF 335-508 Services for Severely \$ 60,405,135 \$ 60,905,135 7551
Mentally Disabled

TOTAL GRF General Revenue Fund \$ 106,254,104 \$ 106,773,358 7552

General Services Fund Group 7553

4N8 335-606 Family Stability \$ 7,460,600 \$ 7,647,115 7554
Incentive

4P9 335-604 Community Mental \$ 200,000 \$ 200,000 7555
Health Projects

TOTAL GSF General Services 7556

Fund Group \$ 7,660,600 \$ 7,847,115 7557

Federal Special Revenue Fund Group 7558

3A7 335-612 Social Services Block \$ 9,314,108 \$ 9,314,108 7559
Grant

3A8 335-613 Federal Grant - \$ 960,000 \$ 960,000 7560
Community Mental

Health Board Subsidy					
3A9	335-614	Mental Health Block	\$	12,754,654	\$ 12,737,654 7561
Grant					
3B1	335-635	Community Medicaid	\$	157,480,000	\$ 165,355,000 7562
Expansion					
State Special Revenue Fund Group					7563
632	335-616	Community Capital	\$	250,000	\$ 250,000 7564
Replacement					
TOTAL SSR	State Special Revenue	\$	250,000	\$ 250,000	7565
Fund Group					
TOTAL FED Federal Special Revenue					7566
Fund Group					
			\$	180,508,762	\$ 188,366,762 7567
TOTAL ALL BUDGET FUND GROUPS			\$	294,673,466	\$ 303,237,235 7568
DEPARTMENT TOTAL					7569
GENERAL REVENUE FUND					
			\$	515,555,079	\$ 513,832,559 7570
				<u>518,555,079</u>	<u>533,832,559</u> 7571
DEPARTMENT TOTAL					7572
GENERAL SERVICES FUND GROUP					
			\$	20,278,415	\$ 20,489,025 7573
DEPARTMENT TOTAL					7574
FEDERAL SPECIAL REVENUE					7575
FUND GROUP					
			\$	199,327,157	\$ 206,370,154 7576
DEPARTMENT TOTAL					7577
STATE SPECIAL REVENUE FUND GROUP					
			\$	6,493,130	\$ 5,572,886 7578
DEPARTMENT TOTAL					7579
INTRAGOVERNMENTAL FUND GROUP					
			\$	76,095,310	\$ 78,181,973 7580
TOTAL DEPARTMENT OF MENTAL HEALTH			\$	817,749,091	\$ 824,446,597 7581
				<u>820,749,091</u>	<u>844,446,597</u> 7582
Sec. 94.11. BREAKTHROUGH INVESTMENTS					7584
OHIO PLAN STUDY COMMITTEE					7585
There is established the Ohio Plan Study Committee, which					7586
shall determine appropriate ways to fund the Ohio Plan for					7587

Technology and Development. The Study Committee shall consist of
the Governor's Science Advisor, the Director of Budget and
Management, the Chancellor of the Board of Regents, the Director
of Development, three members of the House of Representatives
appointed by the Speaker, of whom no more than two shall be of the
same political party, and three members of the Senate appointed by
the President, of whom no more than two shall be of the same
political party. Administrative support for the Study Committee
shall be provided by the Board of Regents. The Study Committee
shall report its recommendations to the Governor and the General
Assembly no later than ~~December 31, 2001~~ March 15, 2002. After it
submits its report, the Study Committee shall cease to exist. The
Ohio Plan for Technology and Development is intended to promote
collaborative efforts among state government, higher education,
and business and industry that will lead to the development of New
Economy applications of science and technology and, ultimately,
new business start-ups in the state and increased economic
prosperity for the citizens of Ohio.

APPALACHIAN NEW ECONOMY PARTNERSHIP

The foregoing appropriation item 235-428, Appalachian New
Economy Partnership, shall be distributed to Ohio University to
begin a multi-campus and multi-agency coordinated effort to link
Appalachia to the new economy. Ohio University shall use these
funds to provide leadership in the development and implementation
of initiatives in the areas of entrepreneurship, management,
education, and technology.

Sec. 104. SOS SECRETARY OF STATE

General Revenue Fund
GRF 050-321 Operating Expenses \$ 3,300,000 \$ 3,300,000
GRF 050-403 Election Statistics \$ 146,963 \$ 154,882
GRF 050-407 Pollworkers Training \$ 231,400 \$ 327,600

As Reported by the Committee of Conference

GRF 050-409	Litigation	\$	26,210	\$	27,622	7656
	Expenditures					
TOTAL GRF	General Revenue Fund	\$	3,704,573	\$	3,810,104	7657
	General Services Fund Group					7658
4S8 050-610	Board of Voting	\$	7,200	\$	7,200	7659
	Machine Examiners					
412 050-607	Notary Commission	\$	166,284	\$	171,273	7660
413 050-601	Information Systems	\$	153,300	\$	157,133	7661
414 050-602	Citizen Education Fund	\$	80,000	\$	70,000	7662
TOTAL General Services	Fund Group	\$	406,784	\$	405,606	7663
	State Special Revenue Fund Group					7664
5N9 050-607	Technology	\$	120,000	\$	121,000	7665
	Improvements					
599 050-603	Business Services	\$	11,880,000	\$	11,979,000	7666
	Operating Expenses					
			<u>12,100,000</u>		<u>12,208,000</u>	7667
TOTAL SSR	State Special Revenue					7668
Fund Group		\$	12,000,000	\$	12,100,000	7669
			<u>12,220,000</u>		<u>12,329,000</u>	7670
	Holding Account Redistribution Fund Group					7671
R01 050-605	Uniform Commercial	\$	65,000	\$	65,000	7672
	Code Refunds					
R02 050-606	Corporate/Business	\$	185,000	\$	185,000	7673
	Filing Refunds					
TOTAL 090	Holding Account					7674
Redistribution Fund Group		\$	250,000	\$	250,000	7675
TOTAL ALL BUDGET FUND GROUPS		\$	16,361,357	\$	16,565,710	7676
			<u>16,581,357</u>		<u>16,794,710</u>	7677
	BOARD OF VOTING MACHINE EXAMINERS					7678
	The foregoing appropriation item 050-610, Board of Voting					7679
	Machine Examiners, shall be used to pay for the services and					7680
	expenses of the members of the Board of Voting Machine Examiners,					7681

and for other expenses that are authorized to be paid from the
Board of Voting Machine Examiners Fund, which is created in
section 3506.05 of the Revised Code. Moneys not used shall be
returned to the person or entity submitting the equipment for
examination. If it is determined that additional appropriations
are necessary, such amounts are appropriated.

HOLDING ACCOUNT REDISTRIBUTION GROUP

The foregoing appropriation items 050-605 and 050-606,
Holding Account Redistribution Fund Group, shall be used to hold
revenues until they are directed to the appropriate accounts or
until they are refunded. If it is determined that additional
appropriations are necessary, such amounts are appropriated.

Sec. 140. TEMPORARY STABILIZATION OF LOCAL GOVERNMENT
DISTRIBUTIONS

(A) On or before the third day of each month of the period
July 2001 through May 2002, the Tax Commissioner shall determine
the amounts credited under sections 5727.45, 5733.12, 5739.21,
5741.03, and 5747.03 of the Revised Code, respectively, to the
Local Government Fund, to the Library and Local Government Support
Fund, and to the Local Government Revenue Assistance Fund in the
twelfth preceding month. On or before June 3, 2002, the Tax
Commissioner shall determine the amounts credited under sections
5727.45, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised
Code, respectively, to the Local Government Fund, to the Library
and Local Government Support Fund, and to the Local Government
Revenue Assistance Fund in June 2000. For purposes of this
section, any amount transferred during the period January 1, 2001,
through June 30, 2001 to the Local Government Fund, to the Local
Government Revenue Assistance Fund, or to the Library and Local
Government Support Fund under section 131.44 of the Revised Code
shall be considered to be an amount credited to that respective

fund under section 5747.03 of the Revised Code. 7713

Notwithstanding sections 5727.45, 5733.12, 5739.21, 5741.03, 7714
and 5747.03 of the Revised Code to the contrary, for each month in 7715
the period July 1, 2001, through June 30, 2003, from the public 7716
utility excise, corporate franchise, sales, use, and personal 7717
income taxes collected: 7718

(1) An amount shall first be credited to the Local Government 7719
Fund that equals the amount credited to that fund from that tax 7720
according to the schedule in division (B) of this section. 7721

(2) An amount shall next be credited to the Local Government 7722
Revenue Assistance Fund that equals the amount credited to that 7723
fund from that tax according to the schedule in division (B) of 7724
this section. 7725

(3) An amount shall next be credited to the Library and Local 7726
Government Support Fund that equals the amount credited to that 7727
fund from that tax according to the schedule in division (B) of 7728
this section. 7729

(B) The amounts shall be credited from each tax to each 7730
respective fund as follows: 7731

(1) In July 2001 and July 2002, the amounts credited in July 7732
2000; 7733

(2) In August 2001 and August 2002, the amounts credited in 7734
August 2000; 7735

(3) In September 2001 and September 2002, the amounts 7736
credited in September 2000; 7737

(4) In October 2001 and October 2002, the amounts credited in 7738
October 2000; 7739

(5) In November 2001 and November 2002, the amounts credited 7740
in November 2000; 7741

(6) In December 2001 and December 2002, the amounts credited 7742
in December 2000; 7743

(7) In January 2002 and January 2003, the amounts credited in 7744
January 2001; 7745

(8) In February 2002 and February 2003, the amounts credited 7746
in February 2001; 7747

(9) In March 2002 and March 2003, the amounts credited in 7748
March 2001; 7749

(10) In April 2002 and April 2003, the amounts credited in 7750
April 2001; 7751

(11) In May 2002 and May 2003, the amounts credited in May 7752
2001; 7753

(12) In June 2002 and June 2003, the amounts credited in June 7754
2000. 7755

(C) Notwithstanding section 5727.84 of the Revised Code to 7756
the contrary, for the period July 1, 2001, through June 30, 2003, 7757
no amounts shall be credited to the Local Government Fund or to 7758
the Local Government Revenue Assistance Fund from the kilowatt 7759
hour tax, and such amounts that would have otherwise been required 7760
to be credited to such funds shall instead be credited to the 7761
General Revenue Fund. Notwithstanding section 131.44 of the 7762
Revised Code to the contrary, for the period July 1, 2001, through 7763
June 30, 2003, no amounts shall be transferred to the Local 7764
Government Fund, the Local Government Revenue Assistance Fund, or 7765
the Library and Local Government Support Fund from the Income Tax 7766
Reduction Fund, and such amounts that would have otherwise been 7767
transferred to such funds from the Income Tax Reduction Fund shall 7768
instead be transferred to the General Revenue Fund. 7769

(D) Notwithstanding any other provision of law to the
contrary, the Tax Commissioner shall do each of the following:

As Reported by the Committee of Conference

(1) By the fourth day of February 2002, the commissioner shall subtract the amount calculated in division (D) (1) (b) of this section from the amount calculated in division (D) (1) (a) of this section. If the amount in division (D) (1) (a) of this section is greater than the amount in division (D) (1) (b) of this section, then subtract the difference from the amount of money from the income tax credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in February 2002.

(a) Money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from July 2001 through January 2002, less each fund's proportional share of \$64,092,000;

(b) The amount of money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from July 2001 through January 2002, if sections 5727.45, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(2) By the fourth day of June 2002, the commissioner shall subtract the amount calculated in division (D) (2) (b) of this section from the amount calculated in division (D) (2) (a) of this section. If the amount in division (D) (2) (a) of this section is greater than the amount in division (D) (2) (b) of this section, then subtract any positive difference from the amount of money from the income tax credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in June 2002.

(a) Money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from February 2002 through May 2002, plus any money subtracted under division (D) (1) of this section;

(b) The amount of money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from February 2002 through May 2002, if sections 5727.45, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(3) By the fourth day of February 2003, the commissioner shall subtract the amount calculated in division (D) (3) (b) of this section from the amount calculated in division (D) (3) (a) of this section. If the amount in division (D) (3) (a) of this section is greater than the amount in division (D) (3) (b) of this section, then subtract the difference from the amount of money from the income tax credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in February 2003.

(a) Money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2002 through January 2003, less each fund's proportional share of \$64,092,000, plus the amount subtracted under division (D) (2) of this section;

(b) The amount of money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2002 through January 2003, if sections 5727.45, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(4) By the fourth day of June 2003, the commissioner shall subtract the amount calculated in division (D) (4) (b) of this section from the amount calculated in division (D) (4) (a) of this section. If the amount in division (D) (4) (a) of this section is greater than the amount in division (D) (4) (b) of this section, then subtract any positive difference from the amount of money

from the income tax credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in June 2003.

(a) Money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from February 2003 through May 2003, plus any money subtracted under division (D) (3) of this section;

(b) The amount of money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from February 2003 through May 2003, if sections 5727.45, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

Notwithstanding any other provision of law to the contrary, 7781
the Tax Commissioner shall compute separate adjustments to the 7782
amounts credited from the public utility excise, corporate 7783
franchise, sales, use, and personal income taxes to the Local 7784
Government Fund, the Local Government Revenue Assistance Fund, and 7785
the Library and Local Government Support Fund during July 2001. 7786
The adjustments shall equal the amount credited to each respective 7787
fund from each respective tax during June 2000 minus the amount 7788
credited to that fund from that tax during June 2001. If an 7789
adjustment is a positive amount, during July 2001, such amount 7790
shall be credited to the Local Government Fund, the Local 7791
Government Revenue Assistance Fund, or the Library and Local 7792
Government Support Fund, as appropriate, and shall be deducted 7793
from the General Revenue Fund. If an adjustment is a negative 7794
amount, during July 2001, such amount shall be deducted from the 7795
Local Government Fund, the Local Government Revenue Assistance 7796
Fund, or the Library and Local Government Support Fund, as 7797
appropriate, and shall be credited to the General Revenue Fund. 7798
Any amount remaining in the Local Government Fund, the Local 7799

Government Revenue Assistance Fund, or the Library and Local
Government Support Fund after the distributions from such funds
are made to local governments in August 2001, shall be certified
by the Tax Commissioner to the Director of Budget and Management
by August 15, 2001, and the Director of Budget and Management
shall transfer such amount from each respective fund to the
General Revenue Fund by August 31, 2001.

For purposes of this section, "pro rata share" means the
percentage calculated for each county and used in each month of
the period July 2000 through June 2001 to distribute the amounts
credited to the Library and Local Government Support Fund in
accordance with section 5747.47 of the Revised Code.

Notwithstanding any other provision of law to the contrary,
in July 2001, each county undivided library and local government
support fund shall receive from the Library and Local Government
Support Fund an amount equal to the amount it would have received
pursuant to section 5747.47 of the Revised Code for that month,
minus its pro rata share of any amount that has been or shall be
transferred from the Library and Local Government Support Fund to
the OPLIN Technology Fund in that month. In August 2001, each
county undivided library and local government support fund shall
receive from the Library and Local Government Support Fund an
amount equal to the amount it received from that fund in July 2000
and August 2000 minus the amount it received from that fund in
July 2001 and minus its pro rata share of any amount transferred
from that fund to the OPLIN Technology Fund in July 2001 or August
2001. In August 2001, each county undivided local government fund
shall receive from the Local Government Fund, each municipality
that receives a distribution directly from the Local Government
Fund shall receive from that fund, and each county undivided local
government revenue assistance fund shall receive from the Local
Government Revenue Assistance Fund an amount equal to the amount

As Reported by the Committee of Conference

it received from that respective fund in July 2000 and August 2000 7832
minus the amount it received from that respective fund in July 7833
2001. In each month of the periods September 1, 2001, through June 7834
30, 2002, and September 1, 2002, through June 30, 2003, each 7835
county undivided local government fund shall receive from the 7836
Local Government Fund, each municipality that receives a 7837
distribution directly from the Local Government Fund shall receive 7838
from that fund, each county undivided local government revenue 7839
assistance fund shall receive from the Local Government Revenue 7840
Assistance Fund, and each county undivided library and local 7841
government support fund shall receive from the Library and Local 7842
Government Support Fund, the same amount it received from that 7843
respective fund in the corresponding month of the period September 7844
1, 2000, through June 2001. In each month of the period July 1, 7845
2002, through August 31, 2002, and in the month of July 2003, each 7846
county undivided local government fund shall receive from the 7847
Local Government Fund, each municipality that receives a 7848
distribution directly from the Local Government Fund shall receive 7849
from that fund, each county undivided local government revenue 7850
assistance fund shall receive from the Local Government Revenue 7851
Assistance Fund, and each county undivided library and local 7852
government support fund shall receive from the Library and Local 7853
Government Support Fund, the same amount it received from that 7854
respective fund in the corresponding month of the period July 1, 7855
2000, through August 31, 2000. If during any month of the period 7856
September 1, 2001, through July 31, 2003, a transfer is made from 7857
the Library and Local Government Support Fund to the OPLIN 7858
Technology Fund, the amount distributed to each county undivided 7859
library and local government support fund shall be reduced by its 7860
pro rata share of the amount transferred. 7861

During the period July 1, 2001, through July 31, 2003, the 7862
Director of Budget and Management shall issue those directives to 7863

state agencies that are necessary to ensure that the appropriate
amounts are distributed to the Local Government Fund, to the Local
Government Revenue Assistance Fund, and to the Library and Local
Government Support Fund to accomplish the purposes of this
section."

Section 20. That existing Sections 41.15, 45, 63.25, 74.01,
74.02, 94.11, 104, and 140 of Am. Sub. H.B. 94 of the 124th
General Assembly are hereby repealed.

Section 21. That Sections 41.10 and 63.09 of Am. Sub. H.B. 94
of the 124th General Assembly, as amended by Am. Sub. H.B. 299 of
the 124th General Assembly, be amended to read as follows:

"Sec. 41.10. EMERGENCY SHELTER HOUSING GRANTS

(A) As used in this section, "emergency shelter housing"
means a structure suitable for the temporary housing of the
homeless and the provision of, or referral to, supportive
services. Shelters that restrict admission to victims of domestic
violence, runaways, or alcohol or substance abusers shall not be
considered emergency shelter housing.

(B) The foregoing appropriation item 195-440, Emergency
Shelter Housing Grants, shall be used by the Office of Housing and
Community Partnerships in the Department of Development to make
grants to private, nonprofit organizations to provide emergency
shelter housing for the homeless. The department shall distribute
the grants pursuant to rules adopted by the Director of
Development. The director may amend or rescind the rules and may
adopt other rules necessary to implement this section. In awarding
grants, the department shall give preference to organizations
applying to fund existing emergency shelter housing.

The department shall notify each organization that applied

for a grant under this section of the amount of its grant award, 7893
if any. To receive a grant, the organization shall provide 7894
matching funds equal to 50 per cent of the total grant it was 7895
awarded. The organization shall expend its grant for shelter 7896
operations and supportive services, which include employment 7897
assistance, case management, information and referral services, 7898
transportation, and clothing. In providing employment assistance, 7899
the organization shall, at a minimum, refer persons to the 7900
Department of Job and Family Services. 7901

LOW AND MODERATE INCOME HOUSING 7902

The Director of Budget and Management, after consulting with 7903
the Director of Development, shall transfer up to \$19,000,000 from 7904
appropriation item 195-441, Low and Moderate Income Housing, to 7905
appropriation item 195-638, Low and Moderate Income Housing Trust 7906
Fund. This transfer shall be made via an intrastate transfer 7907
voucher. 7908

UTILITY BILL CREDIT 7909

The foregoing appropriation item 195-505, Utility Bill 7910
Credits, shall be used to provide utility and fuel assistance to 7911
eligible low-income Ohio households with elderly and disabled 7912
members. 7913

TANF HOUSING PROGRAM 7914

There is hereby established the TANF Housing Program to be 7915
administered by the Department of Development in accordance with 7916
an interagency agreement entered into with the Department of Job 7917
and Family Services under section 5101.801 of the Revised Code. 7918
The program shall provide benefits and services to TANF eligible 7919
individuals under a Title IV-A program pursuant to the 7920
requirements of section 5101.801 of the Revised Code. 7921

The foregoing appropriation item 195-619, TANF Housing 7922
Program, shall be used to provide supportive services for 7923

low-income families related to housing or homelessness, including 7924
housing counseling; to provide grants to nonprofit organizations 7925
to assist Title IV-A eligible families with incomes at or below 7926
200 per cent of the federal poverty guidelines with down-payment 7927
assistance for homeownership or down-payment assistance toward the 7928
purchase of mobile homes, to provide emergency home repair funding 7929
for Title IV-A eligible families with incomes at or below 200 per 7930
cent of the federal poverty guidelines; to provide operating 7931
support for family emergency shelter programs; and to provide 7932
emergency rent and mortgage assistance for families with incomes 7933
at or below 200 per cent of the federal poverty guidelines. The 7934
funds shall not be used to match federal funds. 7935

To the extent practicable and in order to prevent duplication 7936
of the provision of assistance, the Department of Development 7937
shall require applicants for these funds to provide evidence of 7938
collaboration with other county governmental entities, including, 7939
when appropriate, county job and family services departments. 7940

The Department of Job and Family Services shall transfer into 7941
the TANF Housing Fund (3X3) of the Department of Development, 7942
which is hereby created, funds necessary to reimburse allowable 7943
TANF Housing Program expenditures as reported by the Department of 7944
Development. The transfer of funds shall be made by intrastate 7945
transfer vouchers processed against appropriation item 600-689, 7946
TANF Block Grant, of the Department of Job and Family Services and 7947
shall not exceed ~~\$5,200,000 in fiscal year 2002 and \$6,500,000 in~~ 7948
~~fiscal year 2003~~ \$11,700,000 for the biennium. Encumbrances shall 7949
be allowed and maintained for agreements meeting provisions of 7950
this section and shall be maintained for a period not to exceed 7951
federal provisions for use of TANF Block Grant funds that have 7952
been committed for any federal TANF Block Grant year for services 7953
that are not considered to be "assistance" as defined in 45 C.F.R. 7954
260.31(a). 7955

No more than five per cent of the transferred funds may be 7956
used by the Department of Development for the administrative 7957
expenses of this program. 7958

The benefits and services provided under the TANF Housing 7959
Program shall not be "assistance" as defined in 45 C.F.R. 7960
260.31(a), and shall be benefits and services that 45 C.F.R. 7961
260.31(b) excludes from the definition of assistance. 7962

As used in this section, "federal poverty guideline" means 7963
the poverty guideline as defined by the United States Office of 7964
Management and Budget and revised by the United States Secretary 7965
of Health and Human Services in accordance with section 673 of the 7966
"Community Services Block Grant Act," 95 Stat. 511 (1981), 42 7967
U.S.C.A. 9902, as amended. 7968

Sec. 63.09. TANF 7969

TANF COUNTY INCENTIVES 7970

Of the foregoing appropriation item 600-689, TANF Block 7971
Grant, the Department of Job and Family Services may provide 7972
financial incentives to those county departments of job and family 7973
services that have exceeded performance standards adopted by the 7974
state department, and where the board of county commissioners has 7975
entered into a written agreement with the state department under 7976
section 5101.21 of the Revised Code governing the administration 7977
of the county department. Any financial incentive funds provided 7978
pursuant to this division shall be used by the county department 7979
for additional or enhanced services for families eligible for 7980
assistance under Chapter 5107. or benefits and services under 7981
Chapter 5108. of the Revised Code or, on request by the county and 7982
approval by the Department of Job and Family Services, be 7983
transferred to the Child Care and Development Fund or the Social 7984
Services Block Grant. The county departments of job and family 7985
services may retain and expend such funds without regard to the 7986

state or county fiscal year in which the financial incentives were 7987
earned or paid. Each county department of job and family services 7988
shall file an annual report with the Department of Job and Family 7989
Services providing detailed information on the expenditure of 7990
these financial incentives and an evaluation of the effectiveness 7991
of the county department's use of these funds in achieving 7992
self-sufficiency for families eligible for assistance under 7993
Chapter 5107. or benefits and services under Chapter 5108. of the 7994
Revised Code. 7995

TANF YOUTH DIVERSION PROGRAMS 7996

Of the foregoing appropriation item 600-689, TANF Block 7997
Grant, \$19,500,000 in each fiscal year shall be allocated by the 7998
Department of Job and Family Services to the counties according to 7999
the allocation formula established in division (D) of section 8000
5101.14 of the Revised Code. Of the funds allocated to each 8001
county, up to half may be used for contract services for unruly 8002
and misdemeanor diversionary programs. 8003

The remaining funds not allocated for use in juvenile 8004
diversion activities may be used by the county for other contract 8005
child welfare services. In counties with separate departments of 8006
job and family services and public children services agencies, the 8007
county department of job and family services shall serve as a pass 8008
through to the public children services agencies for these funds. 8009
Separate public children services agencies receiving such funds 8010
shall comply with all TANF requirements, including reporting 8011
requirements and timelines, as specified in state and federal 8012
laws, federal regulations, state rules, and the Title IV-A state 8013
plan, and are responsible for payment of any adverse audit 8014
finding, final disallowance of federal financial participation, or 8015
other sanction or penalty issued by the federal government or 8016
other entity concerning these funds. 8017

Of the foregoing \$19,500,000 set aside, any funds remaining 8018

unspent on June 30, 2002, shall be carried forward and added to 8019
the earmark for fiscal year 2003, and allocated to the counties 8020
according to the allocation formula established in division (D) of 8021
section 5101.14 of the Revised Code. 8022

KINSHIP NAVIGATORS 8023

Of the foregoing appropriation item 600-689, TANF Block 8024
Grant, up to \$3 million in each fiscal year shall be allocated by 8025
the Department of Job and Family Services to county departments of 8026
job and family services for the purpose of making allocations to 8027
local public children services agencies to provide services in the 8028
Kinship Navigation program. The allocation to county departments 8029
of job and family services shall be based on the number of Ohio 8030
works first cases in the county, and the number of children 8031
seventeen years of age or younger in the county. The Department of 8032
Job and Family Services shall develop an appropriate method of 8033
reallocating these funds in each fiscal year among the county 8034
departments of job and family services, if they would otherwise be 8035
unspent. 8036

TANF FAITH-BASED AND NON-PROFIT CAPACITY-BUILDING PROGRAMS 8037

From the foregoing appropriation item 600-689, TANF Block 8038
Grant, up to \$1,000,000 in each fiscal year shall be used to 8039
support capacity-building efforts among faith-based and non-profit 8040
organizations, for the purpose of providing allowable services to 8041
TANF-eligible individuals. Organizations receiving these funds 8042
shall comply with all TANF requirements, and shall agree with the 8043
Department of Job and Family Services on reporting requirements to 8044
be incorporated into the grant agreement. 8045

TANF EDUCATION 8046

There is hereby established the Title IV-A Education Program 8047
to be administered by the Department of Education in accordance 8048
with an interagency agreement entered into with the Department of 8049

Job and Family Services under division (A)(2) of section 5101.801 8050
of the Revised Code. The program shall provide benefits and 8051
services to TANF eligible individuals with incomes at or below 200 8052
per cent of the federal poverty guidelines under a Title IV-A 8053
program pursuant to the requirements of section 5101.801 of the 8054
Revised Code. Upon approval by the Department of Job and Family 8055
Services, the Department of Education shall adopt policies and 8056
procedures establishing program requirements for eligibility, 8057
services, fiscal accountability, and other criteria necessary to 8058
comply with the provisions of Title IV-A of the "Social Security 8059
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 8060

The Department of Job and Family Services shall reimburse the 8061
General Revenue Fund through intrastate transfer vouchers for 8062
allowable Title IV-A Head Start expenditures reported by the 8063
Department of Education in fiscal year 2002 by amounts up to 8064
\$76,156,175 from Fund 3V6, TANF Block Grant, and in fiscal year 8065
2003, up to \$98,843,825 from Fund 3V6, TANF Block Grant. The 8066
Department of Job and Family Services shall reimburse the General 8067
Revenue Fund through intrastate transfer vouchers for allowable 8068
Title IV-A student intervention services expenditures in fiscal 8069
year 2003 up to \$35,000,000 from Fund 3V6, TANF Block Grant. 8070

COUNTY DEPARTMENTS OF JOB AND FAMILY SERVICES TITLE IV-A 8071
ADULT LITERACY AND CHILD READING PROGRAMS 8072

There is hereby established the Title IV-A Adult Literacy and 8073
Child Reading Program to be administered by the county departments 8074
of job and family services in accordance with division (B)(1) of 8075
section 5101.801 of the Revised Code. The program shall provide 8076
benefits and services to TANF-eligible individuals with incomes at 8077
or below 200 per cent of the federal poverty guidelines under a 8078
Title IV-A program pursuant to the requirements of section 8079
5101.801 of the Revised Code. The county departments of job and 8080
family services shall ensure program requirements for eligibility, 8081

services, fiscal accountability, and other criteria necessary to 8082
comply with the provisions of Title IV-A of the "Social Security 8083
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended, and ensure 8084
that benefits and services are allowable uses of federal Title 8085
IV-A funds as specified in 42 U.S.C.A. 604(a), except that they 8086
may not be "assistance" as defined in 45 C.F.R. 260.31(a). The 8087
benefits and services shall be benefits and services that 45 8088
C.F.R. 260.31(b) excludes from the definition of "assistance." 8089
From the foregoing appropriation item 600-689, TANF Block Grant, 8090
up to \$5,000,000 in each fiscal year shall be used to support 8091
local adult literacy and child reading programs. 8092

TALBERT HOUSE 8093

In each fiscal year, the Director of Job and Family Services 8094
shall provide \$100,500 from appropriation item 600-689, TANF Block 8095
Grant, to the Hamilton County Department of Job and Family 8096
Services to contract with the Talbert House for the purpose of 8097
providing allowable services to TANF-eligible individuals with 8098
incomes at or below 200 per cent of the federal poverty 8099
guidelines. The contract between the Hamilton County Department of 8100
Job and Family Services and the Talbert House shall establish 8101
conditions for the reimbursement of allowable Title IV-A 8102
expenditures for services that are allowable uses of federal Title 8103
IV-A funds as specified in 42 U.S.C.A. 604(a), except that they 8104
may not be "assistance" as defined in 45 C.F.R. 260.31(a). The 8105
benefits and services shall be benefits and services that 45 8106
C.F.R. 260.31(b) excludes from the definition of "assistance." The 8107
contract shall also require Talbert House to comply with 8108
requirements of Title IV-A of the "Social Security Act," 110 Stat. 8109
2113 (1996), 42 U.S.C. 601, as amended, including eligibility of 8110
individuals, reporting requirements, allowable benefits and 8111
services, use of funds, and audit requirements, as specified in 8112
state and federal laws, federal regulations, state rules, federal 8113

Office of Management and Budget circulars, and the Title IV-A
state plan. 8114
8115

MONTGOMERY COUNTY OUT-OF-SCHOOL YOUTH PROJECT 8116

In each fiscal year, the Director of Job and Family Services 8117
shall provide \$1,000,000 from appropriation item 600-689, TANF 8118
Block Grant, to the Montgomery County Department of Job and Family 8119
Services to be used to support the Out-of-School Youth Project in 8120
Montgomery County for the purpose of providing allowable services 8121
to TANF-eligible individuals. The Montgomery County Department of 8122
Job and Family Services and the Sinclair Community College shall 8123
comply with all TANF requirements, including reporting 8124
requirements and timelines, as specified in state and federal 8125
laws, federal regulations, state rules, and the Title IV-A state 8126
plan. 8127

APPALACHIAN TECHNOLOGY AND WORKFORCE DEVELOPMENT ~~AND JOB~~
~~TRAINING~~ 8128
8129

From the foregoing appropriation item 600-689, TANF Block 8130
Grant, the Director of Job and Family Services shall provide up to 8131
\$15,000,000 to be awarded to the county departments of job and 8132
family services in the twenty-nine Appalachian counties; 8133
~~contingent upon passage of H.B. 6 of the 124th General Assembly.~~ 8134
Each county shall be eligible to apply for an initial grant, or 8135
grants, the cumulative amount of which shall not exceed \$500,000 8136
per county. These funds shall be used by the county departments of 8137
job and family services in coordination with the Governor's Office 8138
of Appalachia, the Governor's Regional Economic Office, and local 8139
development districts. These funds shall be used for the following 8140
eligible activities: workforce development and supportive 8141
services; ~~economic development;~~ microenterprise development and 8142
other entrepreneurship activities; technology expansion, technical 8143
assistance, and training; youth job training; ~~organizational~~ 8144
~~development for workforce development partners;~~ and improving 8145

As Reported by the Committee of Conference

existing technology centers, ~~workforce development~~, job creation 8146
and retention, purchasing technology, ~~and technology~~ and 8147
technology ~~infrastructure~~ upgrades. The funds may be used to 8148
leverage other state and local funds for eligible activities. 8149

As a condition on the use of these funds, each county 8150
department of job and family services shall have a committee that 8151
shall submit a plan for the intended use of these funds to the 8152
~~Department of Job and Family Services~~ Governor's Office of 8153
Appalachia. The plan shall ~~also~~ be reviewed by the Governor's 8154
Office of Appalachia, ~~the Governor's Regional Economic Office, and~~ 8155
~~local development districts. Also which may approve or disapprove~~ 8156
the plan in whole or in part. The Governor's Office of Appalachia 8157
shall forward each final, approved plan to the Department of Job 8158
and Family Services. The plan must be developed and submitted by a 8159
county committee that includes, at a minimum, a county 8160
commissioner; a mayor of a municipality in the county; an economic 8161
development official from the county, local political subdivision, 8162
or development district; a representative of a chamber of commerce 8163
or a port authority in the county; a local or regional community 8164
action representative; and a representative from the county 8165
department of job and family services. 8166

The Governor's Office of Appalachia shall develop guidelines 8167
for the submission and approval of plans, guidelines for quarterly 8168
monitoring and reporting on program activities after funds are 8169
awarded, and any other guidelines necessary for the administration 8170
of the program. The Department of Job and Family Services shall 8171
provide technical assistance and advice to the Governor's Office 8172
of Appalachia to facilitate the administration of the funds. The 8173
Governor's Office of Appalachia shall develop guidelines for the 8174
reallocation of unawarded funds. 8175

Also as a condition on the use of these funds, each county 8176
~~and contract agency~~ shall acknowledge that these funds are a 8177

one-time allocation, not intended to fund services beyond 8178
~~September~~ June 30, 2002 2003. 8179

In fiscal year 2002, the TANF allocation to each of the 8180
Appalachian counties shall not be less than the TANF allocation 8181
amount for fiscal year 2001, as allocated according to the 8182
methodology set forth in paragraph (I) of rule 5101-6-03 of the 8183
Administrative Code. 8184

The use of these funds shall comply with all TANF 8185
requirements, including reporting requirements and timelines, as 8186
specified in state and federal laws, federal regulations, state 8187
rules, and the Title IV-A state plan. 8188

CENTER FOR FAMILY AND CHILDREN 8189

Of the foregoing appropriation item 600-689, TANF Block 8190
Grant, \$150,000 in fiscal year 2002 shall be provided to the 8191
Center for Family and Children. 8192

TANF FAMILY PLANNING 8193

The Director of Budget and Management shall transfer by 8194
intrastate voucher, no later than the fifteenth day of July of 8195
each fiscal year, cash from the General Revenue Fund, 8196
appropriation item 600-410, TANF State, to General Services Fund 8197
5C1 in the Department of Health, in an amount of \$250,000 in each 8198
fiscal year for the purpose of family planning services for 8199
children or their families whose income is at or below 200 per 8200
cent of the official poverty guideline. 8201

TANF FEDERAL BLOCK GRANT FUNDS AND TRANSFERS 8202

From the foregoing appropriation items 600-410, TANF State; 8203
600-658, Child Support Collections; or 600-689, TANF Block Grant, 8204
or a combination of these appropriation items, no less than 8205
\$369,040,735 in each fiscal year shall be allocated to county 8206
departments of job and family services as follows: 8207

County Allocations	\$276,586,957	8208
--------------------	---------------	------

As Reported by the Committee of Conference

WIA Supplement	\$35,109,178	8209
Early Start - Statewide	\$38,034,600	8210
Transportation	\$5,000,000	8211
County Training	\$3,050,000	8212
Adult Literacy and Child		8213
Reading Programs	\$5,000,000	8214
Disaster Relief	\$5,000,000	8215
School Readiness Centers	\$1,260,000	8216

Upon the request of the Department of Job and Family
 Services, the Director of Budget and Management may seek
 Controlling Board approval to increase appropriations in
 appropriation item 600-689, TANF Block Grant, provided sufficient
 Federal TANF Block Grant funds exist to do so, without any
 corresponding decrease in other appropriation items. The
 Department of Job and Family Services shall provide the Office of
 Budget and Management and the Controlling Board with documentation
 to support the need for the increased appropriation.

All transfers of moneys from or charges against TANF Federal
 Block Grant awards for use in the Social Services Block Grant or
 the Child Care and Development Block Grant from either unobligated
 prior year appropriation authority in appropriation item 400-411,
 TANF Federal Block Grant, or 600-411, TANF Federal Block Grant, or
 from fiscal year 2002 and fiscal year 2003 appropriation authority
 in item 600-689, TANF Block Grant, shall be done ten days after
 the Department of Job and Family Services gives written notice to
 the Office of Budget and Management. The Department of Job and
 Family Services shall first provide the Office of Budget and
 Management with documentation to support the need for such
 transfers or charges for use in the Social Services Block Grant or
 in the Child Care and Development Block Grant.

The Department of Job and Family Services shall in each
 fiscal year of the biennium transfer the maximum amount of funds

from the federal TANF Block Grant to the federal Social Services 8241
Block Grant as permitted under federal law. Not later than July 8242
15, 2001, the Department of Job and Family Services shall draw 8243
\$60,000,000 in receipts from TANF funds that were transferred into 8244
the Social Services Block Grant into State Special Revenue Fund 8245
5Q8, in the Office of Budget and Management. Not later than June 8246
1, 2002, the Director of Budget and Management shall determine the 8247
amount of funds in State Special Revenue Fund 5Q8 that is needed 8248
for the purpose of balancing the General Revenue Fund, and may 8249
transfer that amount to the General Revenue Fund. Not later than 8250
June 1, 2003, the Director of Budget and Management shall 8251
determine the amount of funds in State Special Revenue Fund 5Q8 8252
that is needed for the purpose of balancing the General Revenue 8253
Fund, and may transfer that amount to the General Revenue Fund. 8254
Any moneys remaining in State Special Revenue Fund 5Q8 on June 15, 8255
2003, shall be transferred not later than June 20, 2003, to Fund 8256
3V6, TANF Block Grant, in the Department of Job and Family 8257
Services. 8258

Before the thirtieth day of September of each fiscal year, 8259
the Department of Job and Family Services shall file claims with 8260
the United States Department of Health and Human Services for 8261
reimbursement for all allowable expenditures for services provided 8262
by the Department of Job and Family Services, or other agencies 8263
that may qualify for Social Services Block Grant funding pursuant 8264
to Title XX of the Social Security Act. The Department of Job and 8265
Family Services shall deposit, into Fund 5E6, State Option Food 8266
Stamps, \$6 million, into Fund 5P4, TANF Child Welfare, \$7.5 8267
million, into Fund 3W5, Health Care Services, \$500,000, into Fund 8268
3W8, Hippy Program, \$62,500, and into Fund 3W9, Adoption 8269
Connection, \$50,000 and deposit in fiscal year 2002, into Fund 8270
3W2, Title XX Vocational Rehabilitation, \$600,000, into Fund 162 8271
in the Department of Natural Resources, \$7,885,349, and into Fund 8272

3W3, Adult Special Needs, \$4,720,227 in receipts from TANF Block		8273
Grant funds credited to the Social Services Block Grant. In fiscal		8274
year 2003, if, pursuant to federal law, the state is allowed to		8275
transfer up to 10 per cent of the TANF block grant and no less		8276
than \$72,796,826 for the purposes of reimbursing allowable		8277
expenditures for services provided by the Department of Job and		8278
Family Services, or other agencies that may qualify for Social		8279
Services Block Grant funding pursuant to Title XX of the Social		8280
Security Act, then the Department of Job and Family Services shall		8281
deposit \$6 million into Fund 5E6, State Option Food Stamps, \$7.5		8282
million into Fund 5P4 TANF Child Welfare, \$897,052 into Fund 3W2,		8283
Title XX Vocational Rehabilitation, and \$500,000 into Fund 3W5,		8284
Health Care Services. To the extent that the amount allowed to be		8285
transferred is less than the \$72,796,826, then the amounts		8286
deposited into the above funds shall be reduced proportionally. On		8287
verification of the receipt of the above revenue, the funds		8288
provided by these transfers shall be used as follows:		8289
Fund 5E6		8290
Second Harvest Food Bank in fiscal year 2002	\$4,500,000	8291
Second Harvest Food Bank in fiscal year 2003	\$4,500,000	8292
Child Nutrition Services in fiscal year 2002	\$900,000	8293
Child Nutrition Services in fiscal year 2003	\$900,000	8294
Ohio Alliance of Boys and Girls Clubs		8295
in fiscal year 2002	\$600,000	8296
Ohio Alliance of Boys and Girls Clubs		8297
in fiscal year 2003	\$600,000	8298
Fund 5P4		8299
Support and Expansion for PCSA Activities		8300
in fiscal year 2002	\$5,500,000	8301
Support and Expansion for PCSA Activities		8302
in fiscal year 2003	\$5,500,000	8303
Pilot Projects for Violent and Aggressive Youth		8304
in fiscal year 2002	\$2,000,000	8305

Pilot Projects for Violent and Aggressive Youth		8306
in fiscal year 2003	\$2,000,000	8307
Fund 3W2		8308
Title XX Vocational Rehabilitation		8309
in fiscal year 2002	\$600,000	8310
Fund 3W3		8311
Adult Protective Services in fiscal year 2002	\$120,227	8312
Non-TANF Adult Assistance in fiscal year 2002	\$1,000,000	8313
Community-Based Correctional Facilities		8314
in fiscal year 2002	\$3,600,000	8315
Fund 162		8316
CCC Operations in fiscal year 2002	\$7,885,349	8317
Fund 3W5		8318
Abstinence-only Education in fiscal year 2002	\$500,000	8319
Abstinence-only Education in fiscal year 2003	\$500,000	8320
Fund 3W8		8321
Hippy Program	\$62,500	8322
Fund 3W9		8323
Adoption Connection	\$50,000	8324
WELLNESS		8325
The foregoing appropriation item 600-690, Wellness, shall be		8326
used by county departments of job and family services for teen		8327
pregnancy prevention programming. Local contracts shall be		8328
developed between county departments of job and family services		8329
and local family and children first councils for the		8330
administration of TANF funding for this program."		8331
Section 22. That existing Sections 41.10 and 63.09 of Am.		8332
Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub.		8333
H.B. 299 of the 124th General Assembly, are hereby repealed.		8334
Section 23. That Section 10 of Am. Sub. S.B. 192 of the 123rd		8335
General Assembly be amended to read as follows:		8336

"~~Sec. 10. Sections~~ Section 8 and 9 of ~~this act~~ Am. Sub. S.B. 192 of the 123rd General Assembly shall remain in full force and effect commencing on July 1, 2000, and terminating on June 30, 2002, for the purpose of drawing money from the state treasury in payment of liabilities lawfully incurred thereunder, and on June 30, 2002, and not before, the moneys appropriated thereby shall lapse into the funds from which they are severally appropriated.

The appropriations made in ~~Sections~~ Section 8 and 9 of ~~this act~~ Am. Sub. S.B. 192 of the 123rd General Assembly are subject to all provisions of the capital appropriations bill governing the 2000-2002 biennium that are generally applicable to such appropriations. Expenditures from appropriations contained in ~~Sections~~ Section 8 and 9 shall be accounted for as though made in the capital appropriations bill governing the 2000-2002 biennium."

Section 24. That existing Section 10 of Am. Sub. S.B. 192 of the 123rd General Assembly is hereby repealed.

Section 25. That Section 9 of Am. Sub. S.B. 192 of the 123rd General Assembly, as amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

~~"Sec. 9. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Law Enforcement Improvements Trust Fund (Fund J87) that are not otherwise appropriated.~~

Appropriations

AGO ATTORNEY GENERAL 8360

Tobacco Master Settlement Agreement Fund Group 8361

CAP-716 ~~Lab and Training~~ 8362

~~Facility Improvements~~

J87 055-635 Law Enforcement \$ 0 \$ 5,200,000 8363

Technology, Training,
and Facility
Enhancements

TOTAL ~~Attorney General~~ TSF Tobacco \$ 0 \$ 5,200,000 8364
Master Settlement Agreement Fund
Group

TOTAL ~~Law Enforcement Improvements~~ \$ 0 \$ 5,200,000 8365
~~Trust Fund~~ ALL BUDGET FUND GROUPS

LAW ENFORCEMENT IMPROVEMENTS TRUST FUND 8366

The foregoing appropriation item 055-635, Law Enforcement 8367
Technology, Training, and Facility Enhancements shall be used in 8368
accordance with section 183.10 of the Revised Code. 8369
Notwithstanding anything to the contrary contained in sections 8370
9.33 to 9.332 and Chapters 123. and 153. of the Revised Code, the 8371
Office of the Attorney General may negotiate, enter into, and 8372
administer a contract that combines both the design and 8373
construction elements into one contract for the Ohio Peace Officer 8374
Training Academy Outdoor Training Facility and Improvements 8375
project, which is funded from appropriation item 055-635, Law 8376
Enforcement Technology, Training, and Facility Enhancements." 8377

Section 26. That existing Section 9 of Am. Sub. S.B. 192 of 8378
the 123rd General Assembly, as amended by Am. Sub. H.B. 94 of the 8379
124th General Assembly, is hereby repealed. 8380

Section 27. That section 11 of Sub. H.B. 73 of the 124th 8380
General Assembly is hereby repealed.

Section 28. (A) The committee to study a sales tax holiday is
hereby created. The committee shall consist of eleven members, one
of whom shall be the Tax Commissioner. The Speaker of the House of
Representatives shall appoint three members of the House to the
committee, no more than two of whom shall be from the majority

party. The Speaker also shall appoint a member representing retail merchants and a member who is a county commissioner. The President of the Senate shall appoint three members of the Senate to the committee, no more than two of whom shall be from the majority party. The President also shall appoint a member representing consumer advocacy groups and a member representing the Ohio Manufacturers Association. The members of the committee shall be appointed within thirty days after the effective date of this section. The members shall select a chairperson of the committee from among themselves.

(B) The committee shall issue a report to the General Assembly by March 1, 2002. However, if Congress enacts legislation by that date providing national sales tax relief, the committee shall issue no report. After submitting its report, or after determining no report is to be issued because of Congressional action, the committee shall cease to exist. 8380

Section 29. BUDGET STABILIZATION FUND TRANSFERS 8402

Notwithstanding section 131.43 and division (D) of section 127.14 of the Revised Code, the Director of Budget and Management may, with Controlling Board approval, transfer up to \$248 million from the Budget Stabilization Fund to the General Revenue Fund during the 2002-2003 biennium to help ensure that the available revenue receipts and balances in the General Revenue Fund are not less than the appropriations for each fiscal year. 8403 8404 8405 8407 8408 8409 8410

Notwithstanding section 131.43 and division (D) of section 127.14 of the Revised Code, the Director of Budget and Management shall transfer, not later than 30 days after the effective date of this section, \$8.0 million from the Budget Stabilization Fund to the General Revenue Fund. These funds shall be used for emergency purposes, to include, but not be limited to, the Department of Health and Department of Agriculture for anthrax and bioterrorism 8411 8412 8413 8414 8415 8416 8417

testing, the Adjutant General for costs associated with the 8418
deployment of troops, armory maintenance, equipment costs and 8419
capital needs, the Department of Public Safety, security, and 8420
other emergency purpose expenses. These amounts are hereby 8421
appropriated for General Revenue Fund appropriation line items 8422
established by the Director of Budget and Management. 8423

Prior to utilizing these funds, the appropriate agency must 8424
receive the approval of the Controlling Board. Any of these funds 8425
unspent in fiscal year 2002 shall be transferred to fiscal year 8426
2003 by the Director of Budget and Management for the same purpose 8427
as in fiscal year 2002. 8428

The unobligated and unencumbered balance of these funds as of 8429
June 30, 2003, shall be transferred back to the Budget 8430
Stabilization Fund. 8431

Section 30. TRANSFERS FROM THE BUDGET STABILIZATION FUND

Within ten working days after the end of fiscal year 2003,
the Director of Budget and Management shall determine the General
Revenue Fund tax revenues for fiscal year 2003. If the director
finds that the tax revenues are greater than \$17,037,900,000, the
director shall transfer the amount that is in excess of
\$17,037,900,000 from the General Revenue Fund to the Budget
Stabilization Fund.

Section 31. LOAN FROM BUDGET STABILIZATION FUND TO LTV STEEL

The Director of Budget and Management, with Controlling Board
approval, may provide a loan of up to \$5,000,000 in fiscal year
2002 from the Budget Stabilization Fund to LTV Steel Company,
Incorporated. This state loan must be matched with an equivalent
amount from the City of Cleveland and also an equivalent amount
from Cuyahoga County. These funds must be used by LTV Steel for
allowable purposes under Article VIII, Section 13, Ohio

Constitution. The state shall hold a first lien position above all other creditors and shall be the first to receive repayment of any loans received by LTV Steel. Repayments of this loan, including interest, shall be paid back to the Budget Stabilization Fund.

Section 32. TRANSFER FROM THE TOBACCO MASTER SETTLEMENT 8432
AGREEMENT FUND TO THE GENERAL REVENUE FUND 8433

(A) Notwithstanding section 183.02 of the Revised Code, on or before June 30, 2002, the Director of Budget and Management may transfer up to \$120,000,000 from the Tobacco Master Settlement Agreement Fund (Fund 087) to the General Revenue Fund.

Notwithstanding section 183.02 of the Revised Code, on or before June 30, 2003, the Director of Budget and Management may transfer up to \$120,000,000 from the Tobacco Master Settlement Agreement Fund (Fund 087) to the General Revenue Fund.

Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal year 2002 and in fiscal year 2003, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount to be transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund to the Tobacco Use Prevention and Cessation Trust Fund shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund to the General Revenue Fund in accordance with this division.

(B) Notwithstanding section 183.02 of the Revised Code, on or before June 30, 2003, the Director of Budget and Management may make one or more transfers from the Tobacco Master Settlement Agreement Fund (Fund 087) to the General Revenue Fund that in total do not exceed \$20,000,000. From the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal years 2002 and 2003, the shares that are determined pursuant to section 183.02 of the Revised Code to be the amounts to be

transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund to the various trust funds shall be reduced in each fiscal year to provide the revenue for the transfers under this division in a manner to be determined in the tobacco revenue budget act for fiscal years 2003 and 2004, but such manner shall not provide for any reductions in the shares determined for the Education Facilities Trust Fund (Fund N87), Education Facilities Endowment Fund (Fund P87), Education Technology Trust Fund (Fund S87), and Biomedical Research and Technology Transfer Trust Fund (Fund M87). The Director of Budget and Management shall not make any transfers pursuant to this division until it is determined how the shares are to be reduced.

Section 33. APPROPRIATION REDUCTIONS 8452

(A) General Revenue Fund appropriations made to the Ohio 8458
House of Representatives; the Ohio Senate; the Joint Committee on 8459
Agency Rule Review; and the Joint Legislative Ethics Committee are 8460
reduced by six per cent in each fiscal year of the 2001-2003
biennium, with the following exceptions:

(1) GRF appropriations made to the Legislative Service
Commission are reduced by \$1,194,088 in fiscal year 2002 and by
\$992,486 in fiscal year 2003.

(2) Appropriation items 035-409, National Associations, and 8461
035-410, Legislative Information Systems, are exempt from the
reductions made in this section.

(B) The General Revenue Fund appropriations made to the
Judiciary/Supreme Court are reduced by \$650,000 in each fiscal
year of the 2001-2003 biennium.

Section 34. DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS

In each year of the 2001-2003 biennium if the Superintendent 8528

of Public Instruction determines that additional funds are needed 8529
to fully fund the requirements of Am. Sub. S.B. 1 of the 124th 8530
General Assembly for assessments of student performance, the 8531
Superintendent of Public Instruction may recommend the 8532
reallocation of unspent and unencumbered appropriations within the 8533
Department of Education to the General Revenue Fund appropriation 8534
item 200-437, Student Assessment, to the Director of Budget and 8535
Management. If the Director of Budget and Management determines 8536
that such a reallocation is required, the Director of Budget and 8537
Management may transfer unspent and unencumbered funds within the 8538
Department of Education as necessary to appropriation item 8539
200-437, Student Assessment. 8540

Section 35. GRF TRANSFER TO JCARR

The Director of Budget and Management, at the request of the
Director of the Legislative Service Commission, shall transfer up
to \$50,000 from Legislative Service Commission GRF appropriation
item 035-410, Legislative Information Systems, to Joint Committee
on Agency Rule Review GRF appropriation item 029-321, Operating
Expenses.

Section 36. CONDITIONAL TRANSFER TO THE LOTTERY PROFITS 8541
EDUCATION FUND GROUP 8542

Upon approval by the Governor and the Director of the Ohio 8543
Lottery to join a multijurisdictional lottery: 8544

(1) The State Lottery Commission shall transfer a minimum of 8545
\$662,722,600 in fiscal year 2003 to the Lottery Profit Education 8546
Fund Group, and 8547

(2) The Director of Budget and Management shall increase the 8548
fiscal year 2003 appropriation authority in the Department of 8549
Education Lottery Profit Education Fund (017) ALI 200-612, Base 8550

Cost Funding, by \$41,000,000. This amount is hereby appropriated. 8551
The Director of Budget and Management shall also decrease the 8552
fiscal year 2003 appropriation authority in the Department of 8553
Education GRF ALI 200-501, Base Cost Funding, by \$41,000,000. 8554

Section 37. The General Assembly encourages and supports the 8555
Administrator of Workers' Compensation, notwithstanding sections 8556
4123.35 and 4123.40 of the Revised Code, to apply a seventy-five 8557
per cent reduction of future premium pursuant to section 4123.32 8558
of the Revised Code for private state fund employers, and public 8559
employer taxing district employers, for the period when employer 8560
premiums are next due. 8561

Section 38. (A) As used in this section: 8562

(1) "IEP" has the same meaning as defined in section 3323.01 8563
of the Revised Code. 8564

(2) "SBH student" means a student receiving special education 8565
and related services for severe behavior handicap conditions 8566
pursuant to an IEP. 8567

(B) This section applies only to a community school 8568
established under Chapter 3314. of the Revised Code that in fiscal 8569
year 2001 enrolled, and in each of fiscal years 2002 and 2003 8570
enrolls, a number of SBH students equal to at least fifty per cent 8571
of the total number of students enrolled in the school in the 8572
applicable fiscal year. 8573

(C) In addition to any payments made under section 3314.08 of 8574
the Revised Code, in each of fiscal years 2002 and 2003 the 8575
Department of Education shall pay to a community school a subsidy 8576
equal to the amount of the difference when the aggregate amount 8577
calculated and paid to the school under division (D)(2) of section 8578
3314.08 of the Revised Code for SBH students is subtracted from 8579
the aggregate amount calculated and paid to the school for such 8580

students under that division in fiscal year 2001. If the
difference is a negative number, the amount of the subsidy shall
be zero. If the school enrolls in either fiscal year fewer SBH
students that it did in fiscal year 2001, any subsidy paid under
this section shall be proportionately reduced.

(D) The amount of any subsidy paid to a community school
under this section shall not be deducted from any moneys
calculated under Chapter 3317. of the Revised Code for payment to
a school district in which any of its students are entitled to
attend school under section 3313.64 or 3313.65 of the Revised
Code.

Section 39. There is hereby created a committee to study the
impact of gambling. The committee shall consist of eight members,
one of whom shall be the Director of the State Lottery Commission.
The Governor shall appoint three members. The Speaker of the House
of Representatives shall appoint two members of the House to the
committee, one each from the majority and minority parties. The
President of the Senate shall appoint two members of the Senate to
the committee, one each from the majority and minority parties.
The Governor shall appoint the chairperson of the committee from
among the Governor's appointees.

The committee shall issue a report to the General Assembly by
June 30, 2002. Upon issuing its report, the committee shall cease
to exist.

Section 40. The amendment or enactment by this act of
sections 5739.01, 5739.012, 5741.01, and 5741.011 of the Revised
Code apply only to leases entered into on or after February 1,
2002. The amendments or enactments do not apply to the extension
of a lease entered into before that date; the tax shall be
calculated and collected by the vendor on each payment made by the

lessee under such an extension.

8598

8599

The amendment by this act of section 5725.14 of the Revised Code applies to the tax levied under section 5707.03 of the Revised Code in and for 2003 and thereafter.

Section 41. Any person who is entitled to additional payments provided under division (B) or (C) of section 5923.05 of the Revised Code, as amended by this act, shall receive the payments based upon the later of October 1, 2001, or the date the person's leave of absence began due to being ordered to perform duty by the governor as specified in the applicable division. If the person was ordered to perform duty before the effective date of this act and that person is entitled to additional benefits under either of those divisions, as amended by this act, the person's employing entity shall pay, in a lump sum, the person the additional amount due.

Section 42. In calculating and making payments to community schools for special education catastrophic costs under division (E) (1) of section 3314.08 of the Revised Code, the Department of Education shall utilize the law in effect for the fiscal year in which the costs of serving the students were incurred and not the law in effect for the fiscal year in which the costs were reported to and paid by the Department.

(A) As used in this section:

(1) "Provider" means a person or government entity that provides Medicaid-funded services to an individual with mental retardation or other developmental disability pursuant to a service contract.

(2) "Service contract" means a contract between a county board of mental retardation and developmental disabilities and a

provider under which the provider is to provide Medicaid-funded services to an individual with mental retardation or other developmental disability.

(B) To the extent a service contract entered into between a county board of mental retardation and developmental disabilities and a provider prior to June 6, 2001, is inconsistent with state or federal law, the county board and provider shall revise the service contract to make it comply with the procedural requirements of section 5126.035 of the Revised Code. The service contract shall be revised not later than July 1, 2002. In revising a service contract, no county board or provider shall deny an individual eligible for Medicaid-funded services the opportunity to choose a willing and qualified provider with a Medicaid provider agreement.

The amendment by this act of section 5709.40 of the Revised Code adding division (H) to that section, of section 5709.73 of the Revised Code adding division (H) to that section, and of section 5709.73 of the Revised Code adding division (G) to that section, clarifies the intent of the General Assembly in enacting those sections and is not intended as a substantive change to those sections.

(A) Section 1309.401 (1309.528) of the Revised Code is 8600
presented in this act as a composite of the section as amended by 8601
Am. Sub. H.B. 94 and as amended and renumbered by Am. Sub. S.B. 8602
74, both of the 124th General Assembly. The General Assembly, 8603
applying the principle stated in division (B) of section 1.52 of 8604
the Revised Code that amendments are to be harmonized if 8605
reasonably capable of simultaneous operation, finds that the 8606
composite is the resulting version of the section in effect prior 8607
to the effective date of the section as presented in this act. 8608

(B) Section 41 of Am. Sub. H.B. 94 of the 124th General 8609
Assembly is presented in this act as a composite of the section as 8610

amended by both Am. Sub. H.B. 3 and Am. Sub. H.B. 299 of the 124th
General Assembly. The General Assembly, applying the principle
stated in division (B) of section 1.52 of the Revised Code that
amendments are to be harmonized if reasonably capable of
simultaneous operation, finds that the composite is the resulting
version of the section in effect prior to the effective date of
the section as presented in this act.

Section 43. Except as otherwise specifically provided in this
act, the codified and uncoded sections of law amended, enacted,
or repealed by this act, and the items of law of which such
sections are composed, are not subject to the referendum.
Therefore, under Ohio Constitution, Article II, Section 1d and
section 1.471 of the Revised Code, the sections as amended,
enacted, or repealed by this act, and the items of law of which
such sections are composed, are entitled to go into immediate
effect when this act becomes law.

Section 44. Sections 317.33, 3313.37, 3313.375, 3770.02,
3770.03, 3770.06, 5111.34, and 5725.14 of the Revised Code as
amended by this act, and the items of law of which such sections
as amended by this act are composed, are subject to the
referendum. Therefore, under Ohio Constitution, Article II,
Section 1c and section 1.471 of the Revised Code, such sections as
amended by this act, and the items of law of which such sections
as amended by this act are composed, take effect on the
ninety-first day after this act is filed with the Secretary of
State. If, however, a referendum petition is filed against any
such section as amended by this act, or against any item of law of
which any such section as amended by this act is composed, the
section as amended by this act, or item of law, unless rejected at
the referendum, takes effect at the earliest time permitted by
law.

Section 45. Section 11 of Am. Sub. S.B. 50 of the 121st General Assembly as amended by this act, and the items of law of which such Section as amended by this act are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, such Section as amended by this act, and the items of law of which such Section as amended by thhis act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against such Section as amended by this act, or against any item of law of which such Section as amended by this act is composed, the Section as amended by this act, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.