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124th General Assembly

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Am. Sub. H. B. No. 405

REPRESENTATIVES Peterson, Schmidt, Clancy, Willamowski, Calvert,

Evans

SENATOR Carnes

A B I L L

To amend sections 122.15, 149.07, 166.03, 183.02,	1
317.33, 1309.528, 2701.20, 3313.37, 3313.375,	2
3318.31, 3353.07, 3353.11, 3770.02, 3770.03,	3
3770.06, 5111.34, 5111.872, 5123.043, 5123.046,	4
5123.048, 5123.049, 5123.0411, 5126.01, 5126.02,	5
5126.021, 5126.033, 5126.035, 5126.036, 5126.042,	6
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5709.17, 5709.40, 5709.411, 5709.43, 5709.73,	10
5709.74, 5709.75, 5709.77, 5709.78, 5709.79,	11
5709.80, 5709.81, 5733.06, 5733.0610, 5733.11,	12
5733.98, 5739.01, 5741.01, 5747.058, 5747.13, and	13
5747.98; to amend, for the purpose of adopting a	14
new section number as indicated in parentheses,	15
section 5126.056 (5126.057); to enact new section	16
5126.056 and sections 122.171, 122.60, 122.601,	17
122.602, 122.603, 122.604, 122.605, and 307.6910 of	18
the Revised Code and to amend Section 3 of Am. Sub.	19
H.B. 440 of the 121st General Assembly, as	20
subsequently amended, to amend Section 5.02 of Sub.	21
H.B. 73 of the 124th General Assembly, to amend	22
Section 41 of Am. Sub. H.B. 94 of the 124th General	23

Assembly, as subsequently amended, to amend 24
Sections 41.15, 45, 63.25, 74.01, 74.02, 94.11, 98, 25
104, and 140 of Am. Sub. H.B. 94 of the 124th 26
General Assembly, to amend Sections 41.10 and 63.09 27
of Am. Sub. H.B. 94 of the 124th General Assembly, 28
as subsequently amended, to amend Section 10 of Am. 29
Sub. S.B. 192 of the 123rd General Assembly, and to 30
amend Section 9 of Am. Sub. S.B. 192 of the 123rd 31
General Assembly, as subsequently amended, to 32
revise provisions of Am. Sub. H.B. 94 of the 124th 33
General Assembly regarding services for persons 34
with mental retardation or other developmental 35
disabilities, to revise the law governing 36
membership of county boards of mental retardation 37
and developmental disabilities, to exempt sales of 38
clothing and shoes from the sales tax for a two-day 39
period, to grant property tax exemptions for Edison 40
program grantees, to modify Local Government Fund 41
and Tobacco Master Settlement Agreement Fund 42
distributions, to expand the uses of the Corporate 43
and Uniform Commercial Code Filing Fund, to revise 44
provisions of the TANF Housing Program within the 45
Department of Development, to authorize transfers 46
from the Budget Stabilization Fund to the General 47
Revenue Fund, to establish the Capital Access 48
Program in the Department of Development, to create 49
a nonrefundable credit against the corporate 50
franchise and personal income taxes for job 51
retention, to exempt temporarily certain new 52
high-technology companies from the net worth 53
calculation of the corporate franchise tax, to 54
establish the Rural Development Initiative Fund in 55
the state treasury, and to permit the disbursement 56

of grants from that fund in conjunction with loans 57
from the Rural Industrial Park Loan Program, to 58
extend the sunset of the Rural Industrial Park Loan 59
Program to July 1, 2007, to permit political 60
subdivisions in economically distressed areas to 61
employ tax increment financing throughout a 62
designated incentive district, to revise the 63
criteria for the award and use of certain TANF 64
Funds for Appalachia, to permit a county to enter 65
into an agreement with a political subdivision 66
authorizing the county to receive payments of 67
certain revenue in the county treasury that are due 68
a political subdivision as a credit against amounts 69
otherwise owed to the county, to require the 70
Department of Education in fiscal years 2002 and 71
2003 only to pay a subsidy to certain community 72
schools in which at least half of the total number 73
of students enrolled are severe behaviorally 74
handicapped students, to specify control over Ohio 75
Government Telecommunications and associated funds, 76
to require the State Lottery Commission to enter 77
into a multistate lottery if the Governor so 78
directs, alters the liability of county clerks of 79
court and recorders, to increase the membership of 80
the Nursing Facility Reimbursement Study Council, 81
to make corrections, to repeal section 307.6910 of 82
the Revised Code effective July 1, 2007, and to 83
make appropriations. 84

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

Section 1. That sections 122.15, 149.07, 166.03, 183.02, 85
317.33, 1309.528, 2701.20, 3313.37, 3313.375, 3318.31, 3353.07, 86

3353.11, 3770.02, 3770.03, 3770.06, 5111.34, 5111.872, 5123.043, 87
5123.046, 5123.048, 5123.049, 5123.0411, 5126.01, 5126.02, 88
5126.021, 5126.033, 5126.035, 5126.036, 5126.042, 5126.046, 89
5126.05, 5126.054, 5126.055, 5126.06, 5126.14, 5126.15, 5126.17, 90
5126.18, 5126.19, 5126.221, 5126.357, 5705.44, 5709.12, 5709.121, 91
5709.17, 5709.40, 5709.411, 5709.43, 5709.73, 5709.74, 5709.75, 92
5709.77, 5709.78, 5709.79, 5709.80, 5709.81, 5733.06, 5733.0610, 93
5733.11, 5733.98, 5739.01, 5741.01, 5747.058, 5747.13, and 5747.98 94
be amended, section 5126.056 (5126.057) be amended for the purpose 95
of adopting a new section number as indicated in parentheses, and 96
new section 5126.056 and sections 122.171, 122.60, 122.601, 97
122.602, 122.603, 122.604, 122.605, and 307.6910 of the Revised 98
Code be enacted to read as follows: 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) "Information technology" means the branch of technology 149
devoted to the study and application of data and the processing 150
thereof; the automatic acquisition, storage, manipulation or 151
transformation, management, movement, control, display, switching, 152
interchange, transmission or reception of data, and the 153
development or use of hardware, software, firmware, and procedures 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 219
5733.042 of the Revised Code. 220

(2) "Eligible business" means a business with Ohio operations 221
that: 222

(a) Employed an average of at least one thousand employees in 223
full-time employment positions at a project site during each of 224
the twelve months preceding the application for a tax credit under 225
this section; and 226

(b) On or after January 1, 2002, has made payments for the 227
capital investment project of at least two hundred million dollars 228
at the project site during a period of three consecutive calendar 229
years that includes the calendar year that includes a day of the 230
taxpayer's taxable year with respect to which the credit is 231
granted; 232

(c) Has had a capital investment project reviewed and 233
approved by the tax credit authority as provided in divisions (C), 234
(D), and (E) of this section. 235

(3) "Full-time employment position" means a position of 236
employment for consideration for at least thirty-five hours a 237
week, or any other standard of service generally accepted by 238
custom as full-time employment within the industry, that has been 239
filled for at least one hundred eighty days immediately preceding 240

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.

(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.

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

Any unused portion of a tax credit may be carried forward for

not more than three additional years after the year for which the
credit is granted.

(C) A taxpayer who proposes a capital investment project to
retain jobs in this state may apply to the tax credit authority to
enter into an agreement for a tax credit under this section. The
director of development shall prescribe the form of the
application. After receipt of an application, the authority shall
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 304
following: 305

(1) A detailed description of the project that is the subject 306
of the agreement, including the amount of the investment, the 307
period over which the investment has been or is being made, and 308
the number of full-time employment positions at the project site; 309
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(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
compliance with the agreement. Upon verification, the director
shall issue a certificate to the taxpayer stating that the
information has been verified and identifying the amount of the
credit for the taxable year. The director shall not issue a
certificate for any year in which the total number of filled
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 366
position from one political subdivision to another political 367
subdivision shall be considered a relocation of an employment 368
position unless the movement is confined to the project site. The 369
transfer of an individual employee from one political subdivision 370
to another political subdivision shall not be considered a 371
relocation of an employment position as long as the individual's 372
employment position in the first political subdivision is 373
refilled. 374

(9) A waiver by the taxpayer of any limitations periods 375
relating to assessments or adjustments resulting from the 376
taxpayer's failure to comply with the agreement. 377

(F) If a taxpayer fails to meet or comply with any condition 378
or requirement set forth in a tax credit agreement, the tax credit 379
authority may amend the agreement to reduce the percentage or term 380
of the credit. The reduction of the percentage or term shall take 381
effect in the taxable year immediately following the taxable year 382
in which the authority amends the agreement. If the taxpayer 383
relocates employment positions in violation of the provision 384
required under division (D)(8)(a) of this section, the taxpayer 385
shall not claim the tax credit under section 5733.0610 of the 386
Revised Code for any tax years following the calendar year in 387
which the relocation occurs, or shall not claim the tax credit 388
under section 5747.058 of the Revised Code for the taxable year in 389
which the relocation occurs and any subsequent taxable years. 390

(G) Financial statements and other information submitted to 391
the department of development or the tax credit authority by an 392
applicant for or recipient of a tax credit under this section, and 393
any information taken for any purpose from such statements or 394
information, are not public records subject to section 149.43 of 395
the Revised Code. However, the chairperson of the authority may 396
make use of the statements and other information for purposes of 397

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
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
participating financial institution to an eligible business that
may be secured by a deposit of money from the fund into the
participating financial institution's program reserve account.

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

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

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

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

(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.

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Sec. 122.602. (A) There is hereby created in the department
of development the capital access loan program to assist
participating financial institutions in making program loans to
eligible businesses that face barriers in accessing working
capital and obtaining fixed asset financing. In administering the
program, the director of development may do any of the following:

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

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

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

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

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

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in the program.

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(C) To be considered eligible by the director to participate
in the program, a financial institution shall enter into a
participation agreement with the department that sets out the
terms and conditions under which the department will deposit
moneys from the fund into the financial institution's program
reserve account, specifies the criteria for loan qualification
under the program, and contains any additional terms the director
considers necessary.

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(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:

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

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

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(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.

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

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

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(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.

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(E) The director shall not approve a capital access loan to 582
an eligible business that exceeds two hundred fifty thousand 583
dollars for working capital or five hundred thousand dollars for 584
the purchase of fixed assets. An eligible business may apply for 585
the maximum amount of both working capital and the purchase of 586
fixed assets in the same capital access loan. 587

(F) A financial institution may apply to the director for the 588
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. 619

(B) When a participating financial institution makes a 620
capital access loan, it shall require the eligible business to pay 621
to the participating financial institution a fee in an amount that 622
is not less than one and one-half per cent, and not more than 623
three per cent, of the principal amount of the loan. The 624
participating financial institution shall deposit the fee into its 625
program reserve account, and it also shall deposit into the 626
account an amount of its own funds equal to the amount of the fee. 627
The participating financial institution may recover from the 628
eligible business all or part of the amount that the participating 629
financial institution is required to deposit into the account 630
under this division in any manner agreed to by the participating 631
financial institution and the eligible business. 632

(C) For each capital access loan made by a participating 633
financial institution, the participating financial institution 634
shall certify to the director, within a period specified by the 635
director, that the participating financial institution has made 636
the loan. The certification shall include the amount of the loan, 637
the amount of the fee received from the eligible business, the 638
amount of its own funds that the participating financial 639
institution deposited into its program reserve account to reflect 640
that fee, and any other information specified by the director. 641

(D) On receipt of a certification made under division (C) of 642
this section and subject to section 122.602 of the Revised Code, 643

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
amount equal to thirty-three per cent of a participating financial
institution's outstanding capital access loans, the department may
cause the withdrawal of the excess amount and the deposit of the
withdrawn amount into the fund.

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

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

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

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

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

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

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

reserve account.

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

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

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

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

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

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(A) Information regarding the participating financial
institution's outstanding capital access loans, its capital access

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loan losses, and other related matters that the department
considers appropriate;

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

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

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

Sec. 166.03. (A) There is hereby created the facilities
establishment fund within the state treasury, consisting of
proceeds from the issuance of obligations as specified under
section 166.08 of the Revised Code; the moneys received by the
state from the sources specified in section 166.09 of the Revised
Code; service charges imposed under sections 166.06 and 166.07 of
the Revised Code; any grants, gifts, or contributions of moneys
received by the director of development to be used for loans made
under section 166.07 of the Revised Code or for the payment of the
allowable costs of project facilities; and all other moneys
appropriated or transferred to the fund. Moneys in the loan
guarantee fund in excess of four per cent of the unpaid principal
amount of loan repayments guaranteed under section 166.06 of the
Revised Code, but subject to the provisions and requirements of
any guarantee contracts, may be transferred to the facilities
establishment fund by the treasurer of state upon the order of the
director of development. Moneys received by the state under
Chapter 122. of the Revised Code, to the extent allocable to the

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 740
established in section 166.06 of the Revised Code, or for use for 741
the purpose of or transfer to the funds established by sections 742
122.35, 122.42, 122.54, 122.55, 122.56, 122.561, 122.57, 122.601, 743
and 122.80 of the Revised Code and, until July 1, 2003, the ~~funds~~ 744
fund established by ~~sections 122.26 and section~~ 166.031 of the 745
Revised Code, and, until July 1, 2007, the fund established by 746
section 122.26 of the Revised Code, but only for such of those 747
purposes as are within the authorization of Section 13 of Article 748
VIII, Ohio Constitution, in all cases subject to the approval of 749
the controlling board. 750

(C) The department of development, in the administration of 751
the facilities establishment fund, is encouraged to utilize and 752
promote the utilization of, to the maximum practicable extent, the 753
other existing programs, business incentives, and tax incentives 754
that department is required or authorized to administer or 755
supervise. 756

Sec. 183.02. This section's references to years mean state 757
fiscal years. 758

All payments received by the state pursuant to the tobacco 759
master settlement agreement shall be deposited into the state 760
treasury to the credit of the tobacco master settlement agreement 761
fund, which is hereby created. All investment earnings of the fund 762
shall also be credited to the fund. Except as provided in division 763
(I) of this section, payments and interest credited to the fund 764

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:

YEAR	AMOUNT OR PERCENTAGE
2000 (first payment credited)	\$104,855,222.85
2000 (net amount credited)	70.30%
2001	62.84
2002	61.41
2003	63.24
2004	66.65
2005	66.24
2006	65.97
2012	56.01

(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.

(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:

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

(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	
2000 (first payment credited)	5.00%	
2000 (net amount credited)	8.73	
2001	8.12	
2002	9.18	
2003	8.91	
2004	7.84	
2005	7.79	
2006	7.76	
2007	17.39	
2008 through 2011	17.25	

(2) Of the net amounts credited to the tobacco master
settlement agreement fund in 2013, the director shall transfer to
the Ohio public health priorities trust fund the amount not
transferred to the Ohio public health priorities trust fund from

the net amounts credited to the tobacco master settlement 827
agreement fund in 2002 due to Sub. H.B. No. 405 of the 124th 828
general assembly. Of the net amounts credited to the tobacco 829
master settlement agreement fund in 2014, the director shall 830
transfer to the Ohio health priorities trust fund the amount not 831
transferred to the Ohio health priorities trust fund from the net 832
amounts credited to the tobacco master settlement agreement fund 833
in 2003 due to Sub. H.B. No. 405 of the 124th general assembly. 834

(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	839
2001	6.68	840
2002	6.79	841
2003	6.90	842
2004	7.82	843
2005	8.18	844
2006	8.56	845
2007	19.83	846
2008	19.66	847
2009	20.48	848
2010	21.30	849
2011	22.12	850
2012	10.47	851

(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
master settlement agreement fund in 2014, the director shall
transfer to the Ohio health priorities trust fund the amount not
transferred to the Ohio health priorities trust fund from the net
amounts credited to the tobacco master settlement agreement fund
in 2003 due to Sub. H.B. No. 405 of the 124th general assembly.

(E)(1) The following percentages of the net amounts credited
to the tobacco master settlement agreement fund annually shall be
transferred to the biomedical research and technology transfer
trust fund, created in section 183.19 of the Revised Code:

YEAR	PERCENTAGE
2000	2.71
2001	14.03
2002	13.29
2003	12.73
2004	13.78
2005	14.31
2006	14.66
2007	49.57
2008 to 2011	45.06
2012	18.77

(2) Of the net amounts credited to the tobacco master
settlement agreement fund in 2013, the director shall transfer to
the biomedical research and technology transfer trust fund the
amount not transferred to the biomedical research and technology
transfer 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 biomedical research and technology transfer
trust fund the amount not transferred to the biomedical research
and technology transfer trust fund from the net amounts credited

to the tobacco master settlement agreement fund in 2003 due to 891
Sub. H.B. No. 405 of the 124th general assembly. 892

(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	897
2001	128,938,732.73	898
2002	185,804,475.78	899
2003	180,561,673.11	900
2004	122,778,219.49	901
2005	121,389,325.80	902
2006	120,463,396.67	903
2007	246,389,369.01	904
2008 to 2011	267,531,291.85	905
2012	110,954,545.28	906

(G) Of the amounts credited to the tobacco master settlement 907
agreement fund annually, from 2000 to 2012 five million dollars 908
per year shall be transferred to the education facilities 909
endowment fund, created in section 183.27 of the Revised Code. 910
From 2013 to 2025, the following percentages of the amounts 911
credited to the tobacco master settlement agreement fund annually 912
shall be transferred to the endowment fund: 913

YEAR	PERCENTAGE	
2013	30.22	914
2014	33.36	915
2015 to 2025	40.90	916

(H) The following percentages of the net amounts credited to 917
the tobacco master settlement agreement fund annually shall be 918
transferred to the education technology trust fund, created in 919
section 183.28 of the Revised Code: 920

YEAR	PERCENTAGE	923
2000	7.44	924
2001	6.01	925
2002	9.33	926
2003	8.22	927
2004	3.91	928
2005	3.48	929
2006	3.05	930
2007	13.21	931
2008	18.03	932
2009	17.21	933
2010	16.39	934
2011	15.57	935
2012	14.75	936

(I) If in any year from 2001 to 2012 the payments and 937
interest credited to the tobacco master settlement agreement fund 938
during the year amount to less than the amounts required to be 939
transferred to the education facilities trust fund and the 940
education facilities endowment fund that year, the director of 941
budget and management shall make none of the transfers required by 942
divisions (A) to (H) of this section. 943

(J) If in any year from 2000 to 2025 the payments credited to 944
the tobacco master settlement agreement fund during the year 945
exceed the following amounts, the director of budget and 946
management shall transfer the excess to the income tax reduction 947
fund, created in section 131.44 of the Revised Code: 948

YEAR	AMOUNT	949
2000	\$443,892,767.51	950
2001	348,780,049.22	951
2002	418,783,038.09	952
2003	422,746,368.61	953
2004	352,827,184.57	954

2005	352,827,184.57	955
2006	352,827,184.57	956
2007	352,827,184.57	957
2008 to 2017	383,779,323.15	958
2018 to 2025	403,202,282.16	959

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. 960
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(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: 964
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(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; 969
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(2) The crediting of the funds so received by the county against money owed to it by the political subdivision or taxing district. 977
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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. 980
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(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 983
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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
their statutory duties regarding the crediting and distribution of
money to the funds of the parties to agreements entered into under
this section, shall give effect to any such agreements certified
to the county auditor under this section. A certified agreement
shall not affect the time at which moneys otherwise would be
available by law to the parties to the agreement.

(F) The terms of an agreement entered into under this section
may be enforced in the court of common pleas of the county that is
a party to the agreement in an action for a writ of mandamus. For
purposes of that action, it shall be deemed that the legislative
authority of the contracting subdivision has a duty to allow
payments to the county as specified in the agreement, that the
board of county commissioners of the county has a duty to receive

those payments in the manner specified in the agreement, and that
those duties are specifically enjoined by law and result from an
office, trust, or station.

Sec. 317.33. (A) ~~Except as otherwise provided in division (B)~~
~~of this section, if~~ If a county recorder refuses to accept a deed
or other instrument of writing presented to the recorder for
recording, the legal fee for recording it being paid or tendered;
or refuses to give a receipt therefor, when required; or fails to
number consecutively all deeds or other instruments of writing
upon receipt; or fails to index a deed or other instrument of
writing, by the morning of the day next after it is filed for
record; or neglects, without reasonable cause, to record a deed or
other instrument of writing within twenty days after it is
received for record; or demands and receives a greater fee for the
recorder's services than that allowed by law; or knowingly
endorses on a deed or other instrument of writing a different date
from that on which it was presented for record, or a different
date from that on which it was recorded; or refuses to make out
and certify a copy of any record in the recorder's office, when
demanded, the recorder's legal fee for the copy being paid or
tendered; or purposely destroys, defaces, or injures any book,
record, or seal belonging to the recorder's office, or any deed or
other instrument of writing deposited in the recorder's office for
record, or negligently suffers it to be destroyed, defaced, or
injured; or does or omits any other act, contrary to sections
317.01 to 317.33 of the Revised Code, the recorder shall be liable
solely on the recorder's bond to any party harmed by the improper
conduct.

~~(B) If a county recorder, acting under division (B) of~~
~~section 317.13 of the Revised Code, improperly refuses to record~~
~~an instrument of writing in a manner that is not~~ Except as
described in division (A)(6)(b) of section 2744.03 of the Revised

Code, ~~the a county~~ recorder shall not be personally liable ~~on~~ 1050
~~account of the improper refusal for any act or omission for which~~ 1051
~~a recorder is liable under this section,~~ and the surety that 1052
issued the recorder's bond shall not have a right of subrogation 1053
against the recorder on account of a claim made on the recorder's 1054
bond ~~as a result of the improper refusal.~~ 1055

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. 2701.20. (A) Notwithstanding any other provision of the 1076
Revised Code, if a person presents a document to the clerk of a 1077
court of record for filing or for docketing and indexing, the 1078
clerk may refuse to accept the document for filing or refuse to 1079
docket and index the document if the document is not required or 1080

authorized to be filed or to be docketed and indexed with the 1081
clerk or the clerk has reasonable cause to believe the document is 1082
materially false or fraudulent. This division does not create a 1083
duty upon the clerk to inspect, evaluate, or investigate a 1084
document that is presented for filing or for docketing and 1085
indexing. 1086

(B) If the clerk of a court of record, pursuant to division 1087
(A) of this section, refuses to accept a document for filing or 1088
refuses to docket and index a document, the person who presented 1089
the document to the clerk may commence an action in or apply for 1090
an order from the court that the clerk serves to require the clerk 1091
to accept the document for filing or to docket and index the 1092
document. If the court determines that the document is appropriate 1093
for filing or for docketing and indexing, it shall order the clerk 1094
to accept the document for that purpose. 1095

(C) If the clerk of a court of record, acting under this 1096
section in a manner that is not described in division (A)(6)(b) of 1097
section 2744.03 of the Revised Code, improperly refuses to accept 1098
a document for filing ~~or~~, refuses to docket and index a document, 1099
the or performs any other act or omission that gives rise to 1100
liability in the performance of the duties of a clerk of court, 1101
the clerk shall be liable solely on the clerk's bond to any party 1102
harmed by the improper refusal, act, or omission. The clerk shall 1103
not be personally liable ~~on account of the improper refusal~~ and 1104
the surety that issued the bond shall not have a right of 1105
subrogation against the clerk on account of a claim made on the 1106
clerk's bond ~~as a result of the improper refusal.~~ 1107

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 1180
pursuant to section 5705.41 of the Revised Code. Payments shall 1181
not extend for a period of more than five years. Costs relating to 1182
the acquisition of necessary apparatus may be paid from funds 1183
available to the school district or educational service center for 1184
operating purposes. 1185

(5) A board of education or governing board of an educational 1186
service center may acquire the necessary equipment for the 1187
maintenance or physical upkeep of facilities and land under its 1188
control by entering into lease-purchase agreements. If payments 1189
under the lease-purchase agreement are to be made over a period of 1190
time, the agreement shall be considered a continuing contract 1191
pursuant to section 5705.41 of the Revised Code, and such payments 1192
shall not extend for a period of more than five years. 1193

Sec. 3313.375. The board of education of a city, local, 1194
exempted village, or joint vocational school district or the 1195
governing board of an educational service center may enter into a 1196
lease-purchase agreement providing for construction; enlarging or 1197
other improvement, furnishing, and equipping; lease; and eventual 1198
acquisition of a building or improvements to a building for any 1199
school district or educational service center purpose. The 1200
agreement shall provide for a lease for a series of one-year 1201
renewable lease terms totaling not more than thirty years. The 1202
agreement shall provide that at the end of the series of lease 1203
terms provided for in the agreement the title to the leased 1204
property shall be vested in the school district or educational 1205
service center, if all obligations of the school district or 1206
educational service center provided for in the agreement have been 1207

satisfied. The agreement may, in addition to the rental payments, 1208
require the school district or educational service center to pay 1209
the lessor a lump-sum amount as a condition of obtaining title to 1210
the leased property. In conjunction with the agreement, ~~the a~~ 1211
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 1243
an executive director who shall serve at the pleasure of the 1244
commission. The executive director shall supervise the operations 1245
of the commission. The executive director also shall employ and 1246
fix the compensation of such employees as will facilitate the 1247
activities and purposes of the commission, who shall serve at the 1248
pleasure of the executive director. The employees of the 1249
commission shall be exempt from Chapter 4117. of the Revised Code 1250
and shall not be public employees as defined in section 4117.01 of 1251
the Revised Code. 1252

(C) The attorney general shall serve as the legal 1253
representative for the commission and may appoint other counsel as 1254
necessary for that purpose in accordance with section 109.07 of 1255
the Revised Code. 1256

Sec. 3353.07. ~~On and after the effective date of this~~ 1257
~~amendment, the Ohio educational telecommunications network~~ 1258
~~commission shall operate the~~ (A) As used in this section, 1259
"broadcasting station" has the same meaning as in section 3353.01 1260
of the Revised Code. 1261

(B) Ohio government telecommunications shall be funded 1262
through the Ohio educational telecommunications network commission 1263
and shall be managed by a broadcasting station under a contract. 1264
The contract shall not take effect until the program committee of 1265
Ohio government telecommunications approves the contract. The 1266
broadcasting station shall manage the staff of Ohio government 1267
telecommunications. 1268

(C)(1) There is hereby created the program committee of Ohio 1269

government telecommunications ~~system~~ that ~~was operated by the~~ 1270
~~capitol square review and advisory board prior to the effective~~ 1271
~~date of this amendment~~ shall consist of the president of the 1272
senate, speaker of the house of representatives, minority leader 1273
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.

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(C)(1) The ~~state lottery~~ commission shall meet with the
director ~~of the commission~~ at least once each month and shall
convene other meetings at the request of the ~~chairman~~ chairperson
or any five of the members. No action taken by the commission
shall be binding unless at least five of the members present vote
in favor ~~thereof~~ of the action. A written record shall be made of
the proceedings of each meeting and shall be transmitted forthwith
to the governor, the president of the senate, the senate minority
leader, the speaker of the house of representatives, and the house
minority leader.

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

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

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lottery commission or the director's designee. All Except for 1489
gross proceeds from statewide joint lottery games, all revenues of 1490
the state lottery gross revenue fund that are not paid to holders 1491
of winning lottery tickets, that are not required to meet 1492
short-term prize liabilities, that are not paid to lottery sales 1493
agents in the form of bonuses, commissions, or reimbursements, and 1494
that are not paid to financial institutions to reimburse those 1495
institutions for sales agent nonsufficient funds shall be 1496
transferred to the state lottery fund, which is hereby created in 1497
the state treasury. In addition, all revenues of the state lottery 1498
gross revenue fund that represent the gross proceeds from the 1499
statewide joint lottery games and that are not paid to holders of 1500
winning lottery tickets, that are not required to meet short-term 1501
prize liabilities, that are not paid to lottery sales agents in 1502
the form of bonuses, commissions, or reimbursements, and that are 1503
not necessary to cover operating expenses associated with those 1504
games or to otherwise comply with the agreements signed by the 1505
governor that the director enters into under division (J) of 1506
section 3770.02 of the Revised Code or the rules the commission 1507
adopts under division (B)(5) of section 3770.03 of the Revised 1508
Code shall be transferred to the state lottery fund. All 1509
investment earnings of the fund shall be credited to the fund. 1510
Moneys shall be disbursed from the fund pursuant to vouchers 1511
approved by the director. Total disbursements for monetary prize 1512
awards to holders of winning lottery tickets in connection with 1513
the statewide lottery and purchases of goods and services awarded 1514
as prizes to holders of winning lottery tickets shall be of an 1515
amount equal to at least fifty per cent of the total revenue 1516
accruing from the sale of lottery tickets. 1517

(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
further operations, the director shall transfer the excess to the 1525
lottery profits education fund in connection with the statewide 1526
lottery. ~~Investment earnings of the lottery profits education fund~~ 1527
~~shall be credited to the fund.~~ In addition, whenever, in the 1528
judgment of the director of budget and management, the amount to 1529
the credit of the state lottery fund that represents proceeds from 1530
statewide joint lottery games equals the entire net proceeds of 1531
those games as described in division (B)(5) of section 3770.03 of 1532
the Revised Code and the rules adopted under that division, the 1533
director shall transfer those proceeds to the lottery profits 1534
education fund. There shall also be credited to the fund any 1535
repayments of moneys loaned from the educational excellence 1536
investment fund. ~~The~~ Investment earnings of the lottery profits 1537
education fund shall be credited to the fund. 1538

The lottery profits education fund shall be used solely for 1539
the support of elementary, secondary, vocational, and special 1540
education programs as determined in appropriations made by the 1541
general assembly, or as provided in applicable bond proceedings 1542
for the payment of debt service on obligations issued to pay costs 1543
of capital facilities, including those for a system of common 1544
schools throughout the state pursuant to section 2n of Article 1545
VIII, Ohio Constitution. When determining the availability of 1546
money in the lottery profits education fund, the director of 1547
budget and management may consider all balances and estimated 1548
revenues of the fund. 1549

From the amounts that the director of budget and management 1550
transfers in any fiscal year from the state lottery fund to the 1551
lottery profits education fund, the director shall transfer the 1552
initial ten million dollars of those amounts from the lottery 1553

profits education fund to the school building program bond service 1554
fund created in division (Q) of section 3318.26 of the Revised 1555
Code to be pledged for the purpose of paying bond service charges 1556
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
fund. Within sixty days after the end of each fiscal year, the 1567
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 provide all or a part of the amounts necessary 1573
to fund deferred prizes awarded by the commission, the treasurer 1574
of state, in consultation with the commission, may invest moneys 1575
contained in the deferred prizes trust fund in obligations of the 1576
type permitted for the investment of state funds but whose 1577
maturities are thirty years or less. Investments of the deferred 1578
prizes trust fund are not subject to the provisions of division 1579
(A)(10) of section 135.143 of the Revised Code limiting to five 1580
per cent the amount of the state's total average portfolio that 1581
may be invested in debt interests and limiting to one-half of one 1582
per cent the amount that may be invested in debt interests of a 1583
single issuer. 1584

All purchases made under this division shall be effected on a 1585

delivery versus payment method and shall be in the custody of the 1586
treasurer of state. 1587

The treasurer of state may retain an investment advisor, if 1588
necessary. The commission shall pay any costs incurred by the 1589
treasurer of state in retaining an investment advisor. 1590

(D) The auditor of state shall conduct annual audits of all 1591
funds and any other audits as the auditor of state or the general 1592
assembly considers necessary. The auditor of state may examine all 1593
records, files, and other documents of the commission, and records 1594
of lottery sales agents that pertain to their activities as 1595
agents, for purposes of conducting authorized audits. 1596

The state lottery commission shall establish an internal 1597
audit program before the beginning of each fiscal year, subject to 1598
the approval of the auditor of state. At the end of each fiscal 1599
year, the commission shall prepare and submit an annual report to 1600
the auditor of state for the auditor of state's review and 1601
approval, specifying the internal audit work completed by the end 1602
of that fiscal year and reporting on compliance with the annual 1603
internal audit program. The form and content of the report shall 1604
be prescribed by the auditor of state under division (C) of 1605
section 117.20 of the Revised Code. 1606

(E) Whenever, in the judgment of the director of budget and 1607
management, an amount of net state lottery proceeds is necessary 1608
to be applied to the payment of debt service on obligations, all 1609
as defined in sections 151.01 and 151.03 of the Revised Code, the 1610
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~~ divisions 1681
(D) and (E) of 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 1733
purpose. 1734

~~If a county board fails to submit all the components of the~~ 1735
~~plan to the department within the time required by division (B) of~~ 1736
~~section 5126.054 of the Revised Code or the department disapproves~~ 1737
~~a county board's plan, the department may withhold all or part of~~ 1738

~~any funds the department would otherwise allocate to the county~~ 1739
~~board. The department may not withhold any funds the department~~ 1740
~~allocates to the county board prior to the date the last of the~~ 1741
~~plan's components are due or the department disapproves the plan.~~ 1742

The department shall establish protocols that the department 1743
shall use to determine whether a county board is complying with 1744
the programmatic and financial accountability mechanisms and 1745
achieving outcomes specified in its approved plan. If the 1746
department determines that a county board is not in compliance 1747
with the mechanisms or achieving the outcomes specified in its 1748
approved plan, the department may take action under division (G) 1749
of section 5126.055 of the Revised Code. 1750

Sec. 5123.048. (A) For state fiscal year 2002, the department 1751
of mental retardation and developmental disabilities shall assign 1752
to a county board of mental retardation and developmental 1753
disabilities the nonfederal share of medicaid expenditures for 1754
habilitation center services that a private habilitation center 1755
provides if all of the following apply: 1756

(1) The individuals who receive the services also received 1757
the services from the center pursuant to a contract the center had 1758
with the department in state fiscal year 2001; 1759

(2) The county board determined under section 5126.041 of the 1760
Revised Code that the individuals who receive the services are 1761
eligible for county board services; 1762

(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
department had with the center in state fiscal year 2001.

(C) The amount the department shall assign under divisions
(A) and (B) of this section shall ~~be adequate to ensure that the~~
~~habilitation center services the individuals receive are~~
~~comparable in scope to the habilitation center services they~~
~~received when the private habilitation center was under contract~~
~~with the department. The amount that the department assigns shall~~
not be less than the amount the department paid the private
habilitation center for the individuals under each individual who
received the habilitation center services pursuant to the contract
the department had with the center in fiscal year 2001. If the
contract the department had with the private habilitation center
in fiscal year 2001 was for less than the entire fiscal year, the
amount the department shall assign shall be not less than the
amount the department would have paid the center for each
individual who received the services pursuant to the contract had
the contract been for the entire fiscal year.

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

Sec. 5123.049. The director of mental retardation and
developmental disabilities shall adopt rules in accordance with
Chapter 119. of the Revised Code governing the authorization and
payment of home and community-based services, medicaid case
management services, and habilitation center services. The rules
shall provide for private providers of the services to receive one
hundred per cent of the medicaid allowable payment amount and for
government providers of the services to receive the federal share

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 1825
service under Chapter 3323. of the Revised Code and an individual 1826
sixteen or seventeen years of age who is eligible for adult 1827
services under rules adopted by the director of mental retardation 1828
and developmental disabilities pursuant to Chapter 119. of the 1829
Revised Code. 1830

(1) "Adult services" means services provided to an adult 1831
outside the home, except when they are provided within the home 1832
according to an individual's assessed needs and identified in an 1833
individual service plan, that support learning and assistance in 1834
the area of self-care, sensory and motor development, 1835
socialization, daily living skills, communication, community 1836
living, social skills, or vocational skills. 1837

(2) "Adult services" includes all of the following: 1838

(a) Adult day habilitation services; 1839

(b) Adult day care; 1840

(c) Prevocational services; 1841

(d) Sheltered employment; 1842

(e) Educational experiences and training obtained through 1843
entities and activities that are not expressly intended for 1844
individuals with mental retardation and developmental 1845
disabilities, including trade schools, vocational or technical 1846
schools, adult education, job exploration and sampling, unpaid 1847
work experience in the community, volunteer activities, and 1848
spectator sports. 1849

~~(3) "Adult services" does not include community or;~~ 1850

(f) Community employment services and supported employment 1851
services. 1852

(B)(1) "Adult day habilitation services" means adult services 1853
that do the following: 1854

(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 services; 1892
1893

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

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

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

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

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

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

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

(D) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code. 1913
1914
1915
1916

"Developmental disability" means a severe, chronic disability that is characterized by all of the following: 1917
1918

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as 1919
1920
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 1945
adaptations to an individual's home, specified in the individual's 1946
service plan, that are necessary to ensure the individual's 1947
health, safety, and welfare or that enable the individual to 1948
function with greater independence in the home, and without which 1949
the individual would require institutionalization. 1950

(2) "Environmental modifications" includes such adaptations 1951

as installation of ramps and grab-bars, widening of doorways, 1952
modification of bathroom facilities, and installation of 1953
specialized electric and plumbing systems necessary to accommodate 1954
the individual's medical equipment and supplies. 1955

(3) "Environmental modifications" does not include physical 1956
adaptations or improvements to the home that are of general 1957
utility or not of direct medical or remedial benefit to the 1958
individual, including such adaptations or improvements as 1959
carpeting, roof repair, and central air conditioning. 1960

(G) "Family support services" means the services provided 1961
under a family support services program operated under section 1962
5126.11 of the Revised Code. 1963

(H) "Habilitation" means the process by which the staff of 1964
the facility or agency assists an individual with mental 1965
retardation or other developmental disability in acquiring and 1966
maintaining those life skills that enable the individual to cope 1967
more effectively with the demands of the individual's own person 1968
and environment, and in raising the level of the individual's 1969
personal, physical, mental, social, and vocational efficiency. 1970
Habilitation includes, but is not limited to, programs of formal, 1971
structured education and training. 1972

(I) "Habilitation center services" means services provided by 1973
a habilitation center certified by the department of mental 1974
retardation and developmental disabilities under section 5123.041 1975
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 the Revised Code.

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

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

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

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

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

(Q)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to

perform activities of daily living or to perceive, control, or
communicate within the environment.

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

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

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

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

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

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
be reimbursed for necessary expenses incurred in the conduct of
board business, including those incurred within the county of
residence.

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

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

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

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

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

(2) Members of the immediate family of another board member;

(3) Board employees and members of the immediate family of
board employees;

(4) Former board employees within one calendar year of the
termination of employment with the board on which the former

employee would serve.

(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.

(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.

(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.

(E) A county board of mental retardation and developmental disabilities shall not contract with an agency whose board includes a county commissioner of the county served by the county board or an employee of the same county board.

Sec. 5126.033. (A) A county board of mental retardation and developmental disabilities shall not enter into a direct services contract unless the contract is limited either to the actual

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 service plan; 2346
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(4) A clear and complete description of the provider's responsibilities to the recipient and county board in providing appropriate services in a coordinated manner with other providers and in a manner that contributes to and ensures the recipient's health, safety, and welfare. 2348
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(E) The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing service contracts. A service contract does not negate the requirement that a provider of home and community-based services, medicaid case management services, or habilitation center services have a medicaid provider agreement with the department of job and family services. 2353
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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 action the other party has taken or not taken under the service contract; 2362
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(b) A person or government entity aggrieved by the refusal of a county board of mental retardation and developmental disabilities to enter into a service contract with the person or government entity; 2365
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(c) A person or government entity aggrieved by termination by a county board of mental retardation and development disabilities of a service contract between the person or government entity and the county board. 2369
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(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 2430
party files the written notice of mediation and arbitration under 2431
division (B)(1) of this section, the parties may attempt to 2432
resolve the conflict informally. If the parties are able to 2433
resolve the conflict informally within this time, the aggrieved 2434
party shall rescind the written notice of mediation and 2435
arbitration filed under division (B)(1) of this section. 2436

(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 cost of representation.

(6) The first mediation meeting shall be held no later than sixty days after the date the aggrieved party files the written notice of mediation and arbitration under division (B)(1) of this section unless the parties informally resolve the conflict under division (B)(3) of this section or the parties mutually agree to

hold the first meeting at a later time. The mediation shall be
conducted in the manner the parties mutually agree. If the parties
are unable to agree on how the mediation is to be conducted, the
mediator/arbitrator selected under division (B)(4) of this section
shall determine how it is to be conducted. The rules of evidence
may be used. The mediator/arbitrator shall attempt to resolve the
conflict through the mediation process. The mediator/arbitrator's
resolution of the conflict may be applied retroactively.

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

(8) No later than thirty days after the mediator/arbitrator
renders a recommendation in an arbitration, the
mediator/arbitrator shall provide the parties with a written
recommendation and forward a copy of the written recommendation,
transcripts from each arbitration meeting, and a copy of all
evidence presented to the mediator/arbitrator during the
arbitration to the departments of mental retardation and
developmental disabilities and job and family services.

(9) No later than thirty days after the department of mental
retardation and developmental disabilities receives the
mediator/arbitrator's recommendation and the materials required by

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 2526
department receives the response to the remand, that any aspect of 2527
the conflict between the parties affects the medicaid program, the 2528
department of mental retardation and developmental disabilities 2529
shall take all actions under division (B)(9) of this section in 2530
consultation with the department of job and family services. 2531

(C) If the department of mental retardation and developmental 2532

disabilities is aware of a conflict between a county board of 2533
mental retardation and developmental disabilities and a person or 2534
government entity that provides or seeks to provide services to an 2535
individual with mental retardation or other developmental 2536
disability to which the mediation and arbitration procedures 2537
established by this section may be applied and that the aggrieved 2538
party has not filed a written notice of mediation and arbitration 2539
within the time required by division (B)(1) of this section, the 2540
department may require that the parties implement the mediation 2541
and arbitration procedures. 2542

(D) Each service contract shall provide for the parties to 2543
follow the mediation and arbitration procedures established by 2544
this section if a party takes or does not take an action under the 2545
service contract that causes the aggrieved party to be aggrieved 2546
or if the provider is aggrieved by the county board's termination 2547
of the service contract. 2548

Sec. 5126.042. (A) As used in this section: 2549

(1) "Emergency" means any situation that creates for an 2550
individual with mental retardation or developmental disabilities a 2551
risk of substantial self-harm or substantial harm to others if 2552
action is not taken within thirty days. An "emergency" may include 2553
one or more of the following situations: 2554

(a) Loss of present residence for any reason, including legal 2555
action; 2556

(b) Loss of present caretaker for any reason, including 2557
serious illness of the caretaker, change in the caretaker's 2558
status, or inability of the caretaker to perform effectively for 2559
the individual; 2560

(c) Abuse, neglect, or exploitation of the individual; 2561

(d) Health and safety conditions that pose a serious risk to 2562

the individual or others of immediate harm or death; 2563

(e) Change in the emotional or physical condition of the 2564
individual that necessitates substantial accommodation that cannot 2565
be reasonably provided by the individual's existing caretaker. 2566

(2) "Medicaid" has the same meaning as in section 5111.01 of 2567
the Revised Code. 2568

(B) If a county board of mental retardation and developmental 2569
disabilities determines that available resources are not 2570
sufficient to meet the needs of all individuals who request 2571
programs and services and may be offered the programs and 2572
services, it shall establish waiting lists for services. The board 2573
may establish priorities for making placements on its waiting 2574
lists according to an individual's emergency status and shall 2575
establish priorities in accordance with division (D) of this 2576
section. 2577

The individuals who may be placed on a waiting list include 2578
individuals with a need for services on an emergency basis and 2579
individuals who have requested services for which resources are 2580
not available. 2581

Except for an individual who is to receive priority for 2582
services pursuant to division (D)(3) of this section, an 2583
individual who currently receives a service but would like to 2584
change to another service shall not be placed on a waiting list 2585
but shall be placed on a service substitution list. The board 2586
shall work with the individual, service providers, and all 2587
appropriate entities to facilitate the change in service as 2588
expeditiously as possible. The board may establish priorities for 2589
making placements on its service substitution lists according to 2590
an individual's emergency status. 2591

In addition to maintaining waiting lists and service 2592
substitution lists, a board shall maintain a long-term service 2593

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)~~(G) of this section, a
county board shall do, as priorities, all of the following in
accordance with the assessment component, approved under section
5123.046 of the Revised Code, of the county board's plan ~~approved~~
developed under section ~~5123.046~~ 5126.054 of the Revised Code ~~as~~
priorities:

(1) For the purpose of obtaining additional federal medicaid
funds for home and community-based services, medicaid case

management services, and habilitation center services, do both of 2623
the following: 2624

(a) Give an individual who is eligible for home and 2625
community-based services and meets both of the following 2626
requirements priority over any other individual on a waiting list 2627
established under division (C) of this section for home and 2628
community-based services that include supported living, 2629
residential services, or family support services: 2630

(i) Is twenty-two years of age or older; 2631

(ii) Receives supported living or family support services. 2632

(b) Give an individual who is eligible for home and 2633
community-based services and meets both of the following 2634
requirements priority over any other individual on a waiting list 2635
established under division (C) of this section for home and 2636
community-based services that include adult services: 2637

(i) Resides in the individual's own home or the home of the 2638
individual's family and will continue to reside in that home after 2639
enrollment in home and community-based services; 2640

(ii) Receives adult services from the county board. 2641

(2) As federal medicaid funds become available pursuant to 2642
division (D)(1) of this section, give an individual who is 2643
eligible for home and community-based services and meets any of 2644
the following requirements priority for such services over any 2645
other individual on a waiting list established under division (C) 2646
of this section ~~other than an individual given priority under~~ 2647
~~division (D)(1) of this section:~~ 2648

(a) Does not receive residential services or supported 2649
living, either needs services in the individual's current living 2650
arrangement or will need services in a new living arrangement, and 2651
has a primary caregiver who is sixty years of age or older; 2652

(b) Is less than twenty-two years of age, ~~does not receive~~ 2653
~~residential services or supported living, resides in the home of~~ 2654
~~the individual's family,~~ and has at least one of the following 2655
service needs that are unusual in scope or intensity: 2656

(i) Severe behavior problems for which a behavior support 2657
plan is needed; 2658

(ii) An emotional disorder for which anti-psychotic 2659
medication is needed; 2660

(iii) A medical condition that leaves the individual 2661
dependent on life-support medical technology; 2662

(iv) A condition affecting multiple body systems for which a 2663
combination of specialized medical, psychological, educational, or 2664
habilitation services are needed; 2665

(v) A condition the county board determines to be comparable 2666
in severity to any condition described in division (D)(1) 2667
(2)(b)(i) to (iv) of this section and places the individual at 2668
significant risk of institutionalization. 2669

(c) Is twenty-two years of age or older, does not receive 2670
residential services or supported living, and is determined by the 2671
county board to have intensive needs for residential home and 2672
community-based services on an in-home or out-of-home basis. 2673

(3) In fiscal years 2002 and 2003, give an individual who is 2674
eligible for home and community-based services, resides in an 2675
intermediate care facility for the mentally retarded or nursing 2676
facility, chooses to move to another setting with the help of home 2677
and community-based services, and has been determined by the 2678
department of mental retardation and developmental disabilities to 2679
be capable of residing in the other setting, priority over any 2680
other individual on a waiting list established under division (C) 2681
of this section for home and community-based services who does not 2682
meet these criteria. The department of mental retardation and 2683

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)(1) If an individual with mental retardation or other
developmental disability who has priority for home and
community-based services under division (D)(2)(a) or (c) of this
section chooses, instead, to apply for admission to an
intermediate care facility for the mentally retarded or nursing
facility, is eligible to have medicaid pay for the services of
such a facility, and is admitted to such a facility, a county
board may provide, except as provided in division (G) of this
section, another individual with mental retardation or other
developmental disability priority over any other individual on a
waiting list established under division (C) of this section for
home and community-based services if the individual meets all of
the following requirements:

(a) At the time the individual with priority for home and
community-based services applies for admission to an intermediate
care facility for the mentally retarded or nursing facility, is a
resident of that facility.

(b) Has intensive needs and is eligible for home and
community-based services;

(c) Is not given priority for the services pursuant to
division (D)(3) of this section.

(2) An individual may receive priority for home and
community-based services pursuant to division (E)(1) of this
section regardless of whether the individual admitted to an
intermediate care facility for the mentally retarded or nursing

2715 facility resides in the same or different county. If the
2716 individuals reside in different counties, the county boards
2717 serving the counties in which the individuals reside shall enter
2718 into a collaborative agreement with each other as necessary to
2719 implement this division. One or more other county boards may also
2720 enter into the collaborative agreement with the two county boards.

2721 (F) If two or more individuals on a waiting list established
2722 under division (C) of this section for home and community-based
2723 services have priority for the services pursuant to division
2724 (D)(1), (D)(2), or (E) of this section, a county board may use,
2725 until December 31, 2003, criteria specified in rules adopted under
2726 division (K)(2) of this section in determining the order in which
2727 the individuals with priority will be offered the services.
2728 Otherwise, the county board shall offer the home and
2729 community-based services to such individuals in the order they are
2730 placed on the waiting list.

2731 (G)(1) No individual may receive priority for services
2732 pursuant to division (D) ~~or (E)~~ of this section over an individual
2733 placed on a waiting list established under division (C) of this
2734 section on an emergency status.

2735 (2) No more than ~~two~~ four hundred individuals in the state
2736 may receive priority for services during ~~state fiscal years the~~
2737 2002 and 2003 biennium pursuant to division (D)(2)(b) of this
2738 section.

2739 (3) No more than a total of seventy-five individuals in the
2740 state may receive priority for services during state fiscal years
2741 2002 and 2003 pursuant to division (D)(3) of this section.

2742 ~~(F)~~(H) Prior to establishing any waiting list under this
2743 section, a county board shall develop and implement a policy for
2744 waiting lists that complies with this section and rules ~~that the~~
2745 ~~department of mental retardation and developmental disabilities~~

~~shall adopt in accordance with Chapter 119. of the Revised Code.~~ 2746
~~The department's rules shall include procedures to be followed to~~ 2747
~~ensure that the due process rights of individuals placed on~~ 2748
~~waiting lists are not violated~~ adopted under division (K) of this 2749
section. 2750

Prior to placing an individual on a waiting list, the county 2751
board shall assess the service needs of the individual in 2752
accordance with all applicable state and federal laws. The county 2753
board shall place the individual on the appropriate waiting list 2754
and may place the individual on more than one waiting list. The 2755
county board shall notify the individual of the individual's 2756
placement and position on each waiting list on which the 2757
individual is placed. 2758

At least annually, the county board shall reassess the 2759
service needs of each individual on a waiting list. If it 2760
determines that an individual no longer needs a program or 2761
service, the county board shall remove the individual from the 2762
waiting list. If it determines that an individual needs a program 2763
or service other than the one for which the individual is on the 2764
waiting list, the county board shall provide the program or 2765
service to the individual or place the individual on a waiting 2766
list for the program or service in accordance with the board's 2767
policy for waiting lists. 2768

When a program or service for which there is a waiting list 2769
becomes available, the county board shall reassess the service 2770
needs of the individual next scheduled on the waiting list to 2771
receive that program or service. If the reassessment demonstrates 2772
that the individual continues to need the program or service, the 2773
board shall offer the program or service to the individual. If it 2774
determines that an individual no longer needs a program or 2775
service, the county board shall remove the individual from the 2776
waiting list. If it determines that an individual needs a program 2777

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)~~(I) 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)~~(J) 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)~~(K)(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
individuals placed on waiting lists are not violated.

(2) As part of the rules adopted under this division, the
department shall adopt, not later than December 31, 2001, rules
establishing criteria a county board may use under division (F) of

this section in determining the order in which individuals with 2810
priority for home and community-based services will be offered the 2811
services. The rules shall also specify conditions under which a 2812
county board, when there is no individual with priority for home 2813
and community-based services pursuant to division (D)(1), (D)(2), 2814
or (E) of this section available and appropriate for the services, 2815
may offer the services to an individual on a waiting list for the 2816
services but not given such priority for the services. The rules 2817
adopted under division (K)(2) of this section shall cease to have 2818
effect December 31, 2003. 2819

(L) The following shall take precedence over the applicable 2820
provisions of this section: 2821

(1) Medicaid rules and regulations; 2822

(2) Any specific requirements that may be contained within a 2823
medicaid state plan amendment or waiver program that a county 2824
board has authority to administer or with respect to which it has 2825
authority to provide services, programs, or supports. 2826

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 2868
board that receives a list shall make it available to each 2869
individual with mental retardation or other developmental 2870
disability who resides in the county and is eligible for such 2871
residential services or supported living. The county board shall 2872

also make the list available to the families of those individuals. 2873

An individual who is eligible for residential services or 2874
supported living may choose the provider of the residential 2875
services or supported living. 2876

~~If a~~ A county board that has medicaid local administrative 2877
authority under division (A) of section 5126.055 of the Revised 2878
Code for residential services and supported living provided as 2879
part of home and community-based services, ~~the county board~~ shall 2880
pay the nonfederal share of the residential services and supported 2881
living when required by section ~~5126.056~~ 5126.057 of the Revised 2882
Code. The department shall pay the nonfederal share of the 2883
residential services and supported living when required by section 2884
5123.047 of the Revised Code. 2885

(C) If a county board that has medicaid local administrative 2886
authority under division (A) of section 5126.055 of the Revised 2887
Code for home and community-based services violates the right 2888
established by this section of an individual to choose a provider 2889
that is qualified and willing to provide services to the 2890
individual, the individual shall receive timely notice that the 2891
individual may request a hearing under section 5101.35 of the 2892
Revised Code. 2893

(D) The departments of mental retardation and developmental 2894
disabilities and job and family services shall adopt rules in 2895
accordance with Chapter 119. of the Revised Code governing the 2896
implementation of this section. The rules shall include procedures 2897
for individuals to choose their service providers. The rules shall 2898
not be limited by a provider selection system established under 2899
section 5126.42 of the Revised Code, including any pool of 2900
providers created pursuant to a provider selection system. 2901
2902

Sec. 5126.05. (A) Subject to the rules established by the 2903

director of mental retardation and developmental disabilities 2904
pursuant to Chapter 119. of the Revised Code for programs and 2905
services offered pursuant to this chapter, and subject to the 2906
rules established by the state board of education pursuant to 2907
Chapter 119. of the Revised Code for programs and services offered 2908
pursuant to Chapter 3323. of the Revised Code, the county board of 2909
mental retardation and developmental disabilities shall: 2910

(1) Administer and operate facilities, programs, and services 2911
as provided by this chapter and Chapter 3323. of the Revised Code 2912
and establish policies for their administration and operation; 2913
2914

(2) Coordinate, monitor, and evaluate existing services and 2915
facilities available to individuals with mental retardation and 2916
developmental disabilities; 2917

(3) Provide early childhood services, supportive home 2918
services, and adult services, according to the plan and priorities 2919
developed under section 5126.04 of the Revised Code; 2920

(4) Provide or contract for special education services 2921
pursuant to Chapters 3317. and 3323. of the Revised Code and 2922
ensure that related services, as defined in section 3323.01 of the 2923
Revised Code, are available according to the plan and priorities 2924
developed under section 5126.04 of the Revised Code; 2925

(5) Adopt a budget, authorize expenditures for the purposes 2926
specified in this chapter and do so in accordance with section 2927
319.16 of the Revised Code, approve attendance of board members 2928
and employees at professional meetings and approve expenditures 2929
for attendance, and exercise such powers and duties as are 2930
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
level of care provided by an intermediate care facility for the
mentally retarded, may seek home and community-based services, are
given priority for the services pursuant to division (D) of
section 5126.042 of the Revised Code; the service needs of those
individuals; and the projected annualized cost for services;

(b) The source of funds available to the county board 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;

(c) Any other applicable information or conditions that the
department of mental retardation and developmental disabilities
requires as a condition of approving the ~~plan~~ component under
section 5123.046 of the Revised Code.

(2) A component that provides for the recruitment, training,
and retention of existing and new direct care staff necessary to
implement services included in individualized service plans,
including behavior management services and health management
services such as delegated nursing and other habilitation ~~center~~
services, and protect the health and welfare of individuals
receiving services included in the individual's individualized
service plan by complying with safeguards for unusual and major
unusual incidents, day-to-day program management, and other
requirements the department shall identify. A county board shall
develop this component in collaboration with providers of
medicaid-funded services with which the county board contracts. A
county board shall include all of the following in the component:

(a) The source and amount of funds available for the
component;

(b) A plan and timeline for implementing the component with
the medicaid providers under contract with the county board;

(c) The mechanisms the county board shall use to ensure the 3028
financial and program accountability of the medicaid provider's 3029
implementation of the component. 3030

(3) A preliminary implementation component that specifies the 3031
number of individuals to be provided, during the first year that 3032
the plan is in effect, home and community-based services pursuant 3033
to the priority given to them under divisions (D)(1) and (2) of 3034
section 5126.042 of the Revised Code and the types of home and 3035
community-based services the individuals are to receive; 3036

(4) A component that provides for the implementation of 3037
habilitation center services, medicaid case management services, 3038
and home and community-based services for individuals who begin to 3039
receive the services on or after the date the plan is approved 3040
under section 5123.046 of the Revised Code. A county board shall 3041
include all of the following in the component: 3042

(a) If the department of mental retardation and developmental 3043
disabilities or department of job and family services requires, an 3044
agreement to pay the nonfederal share of medicaid expenditures 3045
that the county board is required by division (A) of section 3046
~~5126.056~~ 5126.057 of the Revised Code to pay; 3047

(b) How the services are to be phased in over the period the 3049
plan covers, including how the county board will serve individuals 3050
on a waiting list established under division (C) of section 3051
5126.042 who are given priority status under division (D)(1) of 3052
that section; 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

~~(iii)~~(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 3336
response to the adverse findings. The county board is liable for 3337
any adverse findings that result from an action it takes or fails 3338
to take in its implementation of medicaid local administrative 3339

authority. 3340

(G)~~(1)~~ If the department of mental retardation and 3341
developmental disabilities or department of job and family 3342
services determines that a county board's implementation of its 3343
medicaid local administrative authority under this section is 3344
deficient, the department that makes the determination shall 3345
require that county board do the following: 3346

~~(a)~~(1) If the deficiency affects the health, safety, or 3347
welfare of an individual with mental retardation or other 3348
developmental disability, correct the deficiency within 3349
twenty-four hours; 3350

~~(b)~~(2) If the deficiency does not affect the health, safety, 3351
or welfare of an individual with mental retardation or other 3352
developmental disability, receive technical assistance from the 3353
department or submit a plan of correction to the department that 3354
is acceptable to the department within sixty days and correct the 3355
deficiency within the time required by the plan of correction. 3356

~~(2) If the county board fails to correct a deficiency within 3357
the time required by division (G)(1) of this section to the 3358
satisfaction of the department, or submit an acceptable plan of 3359
correction within the time required by division (G)(1)(b) of this 3360
section, the department shall issue an order terminating the 3361
county board's medicaid local administrative authority over all or 3362
part of home and community-based services, medicaid managed care 3363
services, habilitation center services, all or part of two of 3364
those services, or all or part of all three of those services. The 3365
department shall provide a copy of the order to the board of 3366
county commissioners, probate judge, county auditor, and president 3367
and superintendent of the county board. The department shall 3368
specify in the order the medicaid local administrative authority 3369
that the department is terminating, the reason for the 3370
termination, and the county board's option and responsibilities 3371~~

~~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~~ 3404
~~develop and submit to the department a plan of correction to~~ 3405
~~remediate the problems that caused the department to issue the~~ 3406
~~termination order. If, after reviewing the plan, the department~~ 3407
~~approves it, the contracting authority or administrative receiver~~ 3408
~~shall implement the plan.~~ 3409

~~The county board shall transfer control of state and federal~~ 3410
~~funds it is otherwise eligible to receive for the services for~~ 3411
~~which the county board's medicaid local administrative authority~~ 3412
~~is terminated and funds the county board may use under division~~ 3413
~~(B) of section 5126.056 of the Revised Code to pay the nonfederal~~ 3414
~~share of the services that the county board is required by~~ 3415
~~division (A) of that section to pay. The county board shall~~ 3416
~~transfer control of the funds to the contracting authority or~~ 3417
~~administrative receiver administering the services. The amount the~~ 3418
~~county board shall transfer shall be the amount necessary for the~~ 3419
~~contracting authority or administrative receiver to fulfill its~~ 3420
~~duties in administering the services, including its duties to pay~~ 3421
~~its personnel for time worked, travel, and related matters. If the~~ 3422
~~county board fails to make the transfer, the department may~~ 3423
~~withhold the state and federal funds from the county board and~~ 3424
~~bring a mandamus action against the county board in the court of~~ 3425
~~common pleas of the county served by the county board or in the~~ 3426
~~Franklin county court of common pleas. The mandamus action may not~~ 3427
~~require that the county board transfer any funds other than the~~ 3428
~~funds the county board is required by division (G)(2) of this~~ 3429
~~section to transfer.~~ 3430

~~The contracting authority or administrative receiver has the~~ 3431
~~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 3494
an administrative receiver, the department may utilize employees 3495
of the department, management personnel from another county board, 3496
or other individuals who are not employed by or affiliated with in 3497

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.

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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.

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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
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

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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 3557
expenditures for habilitation center services when required to do 3558
so by division (D) of section 5111.041 of the Revised Code. 3559

(B) A county board may use the following funds to pay the 3560

nonfederal share of the services that the county board is required 3561
by division (A) of this section to pay: 3562

(1) To the extent consistent with the levy that generated the 3563
taxes, the following taxes: 3564

(a) Taxes levied pursuant to division (L) of section 5705.19 3565
of the Revised Code and section 5705.222 of the Revised Code; 3566

(b) Taxes levied under section 5705.191 of the Revised Code 3567
that the board of county commissioners allocates to the county 3568
board to pay the nonfederal share of the services. 3569

(2) Funds that the department of mental retardation and 3570
developmental disabilities distributes to the county board under 3571
sections 5126.11, 5126.12, 5126.15, 5126.18, and 5126.44 of the 3572
Revised Code; 3573

(3) Funds that the department allocates to the county board 3574
for habilitation center services provided under section 5111.041 3575
of the Revised Code; 3576

(4) Earned federal revenue funds the county board receives 3577
for medicaid services the county board provides pursuant to the 3578
county board's valid medicaid provider agreement. 3579

(C) If by December 31, 2001, the United States secretary of 3580
health and human services approves at least five hundred more 3581
slots for home and community-based services for calendar year 2002 3582
than were available for calendar year 2001, each county board 3583
shall provide, by the last day of calendar year 2001, assurances 3584
to the department of mental retardation and developmental 3585
disabilities that the county board will have for calendar year 3586
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 3619
board shall adopt the resolution in time for the county auditor to 3620
make the determination required by division (E) of this section. 3621

(E) Each year, a county auditor shall determine whether the 3622

amount of funds a county board specifies in the resolution it 3623
adopts under division (D) of this section will be available in the 3624
following year for the county board to pay the nonfederal share of 3625
the services that the county board is required by division (A) of 3626
this section to pay. The county auditor shall make the 3627
determination not later than the last day of the year before the 3628
year in which the funds are to be used. 3629

Sec. 5126.06. (A) Except as provided in division (B) of this 3630
section and section ~~5126.035~~ 5126.036 of the Revised Code, any 3631
person who has a complaint involving any of the programs, 3632
services, policies, or administrative practices of a county board 3633
of mental retardation and developmental disabilities or any of the 3634
entities under contract with the county board, may file a 3635
complaint with the board. Prior to commencing a civil action 3636
regarding the complaint, a person shall attempt to have the 3637
complaint resolved through the administrative resolution process 3638
established in the rules adopted under section 5123.043 of the 3639
Revised Code. After exhausting the administrative resolution 3640
process, the person may commence a civil action if the complaint 3641
is not settled to the person's satisfaction. 3642

(B) An employee of a county board may not file under this 3643
section a complaint related to the terms and conditions of 3644
employment of the employee. 3645

Sec. 5126.14. The entity responsible for the habilitation 3646
management included in adult day habilitation services, the 3647
program management included in residential services, and the 3648
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 3712
the county board of mental retardation and developmental 3713
disabilities; 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;
- (4) Establish budgets for services based on the individual's assessed needs and preferred ways of meeting those needs;
- (5) Assist individuals in making selections from among the providers they have chosen;
- (6) Ensure that services are effectively coordinated and provided by appropriate providers;
- (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;
- (8) Perform quality assurance reviews as a distinct function of service and support administration;
- (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;
- (10) Ensure that each individual receiving services has a designated person who is responsible on a continuing basis for providing the individual with representation, advocacy, advice, and assistance related to the day-to-day coordination of services in accordance with the individual's service plan. The service and support administrator shall give the individual receiving services an opportunity to designate the person to provide daily

representation. If the individual declines to make a designation, 3747
the administrator shall make the designation. In either case, the 3748
individual receiving services may change at any time the person 3749
designated to provide daily representation. 3750

(C) Subject to available funds, the department of mental 3751
retardation and developmental disabilities shall pay a county 3752
board an annual subsidy for service and support administration. 3753
The amount of the subsidy shall be equal to the greater of twenty 3754
thousand dollars or two hundred dollars times the board's 3755
certified average daily membership. The payments shall be made in 3756
semiannual installments, which shall be made no later than the 3757
thirty-first day of August and the thirty-first day of January. 3758
Funds received shall be used solely for service and support 3759
administration. 3760

Sec. 5126.17. (A)(1) ~~Annually, on~~ On the request of the 3761
director of mental retardation and developmental disabilities, the 3762
tax commissioner shall provide to the department of mental 3763
retardation and developmental disabilities information specifying 3764
each county's taxable value. 3765

(2) On request of the director, each county auditor shall 3766
submit a certified report to the department specifying the 3767
county's taxes and the aggregate rate of tax authorized to be 3768
levied by the board of county commissioners pursuant to division 3769
(L) of section 5705.19 and section 5705.222 of the Revised Code or 3770
the aggregate rate of tax authorized pursuant to that division and 3771
that section and certified to the county auditor under section 3772
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 3834
board to pay. 3835

(E) Each county board that receives a payment under this 3836
section shall, for each year it receives a payment, certify to the 3837
department that it will make a good faith effort to obtain 3838

revenues, including federal funds, for services to individuals 3839
included in its infant and adult enrollment. 3840

Sec. 5126.19. (A) The director of mental retardation and 3841
developmental disabilities may grant temporary funding from the 3842
community mental retardation and developmental disabilities trust 3843
fund based on allocations to ~~a county board~~ boards of mental 3844
retardation and developmental disabilities. ~~With the consent of~~ 3845
~~the county board, the~~ The director may distribute all or part of 3846
the funding directly to a county board, the persons who provide 3847
the services for which the funding is granted, or persons with 3848
mental retardation or developmental disabilities who are to 3849
receive those services. 3850

(B) Funding granted under division (A) of this section shall 3851
be granted according to the availability of moneys in the fund and 3852
priorities established by the director. Funding may be granted for 3853
any of the following purposes: 3854

(1) Behavioral or short-term interventions for persons with 3855
mental retardation or developmental disabilities that assist them 3856
in remaining in the community by preventing institutionalization; 3857

(2) Emergency respite care services, as defined in section 3858
5126.11 of the Revised Code; 3859

(3) Family support services provided under section 5126.11 of 3860
the Revised Code; 3861

(4) Supported living, as defined in section 5126.01 of the 3862
Revised Code; 3863

(5) Staff training for county board employees, employees of 3864
providers of residential services as defined in section 5126.01 of 3865
the Revised Code, and other personnel under contract with a county 3866
board, to provide the staff with necessary training in serving 3867
mentally retarded or developmentally disabled persons in the 3868

community; 3869

(6) Short-term provision of early childhood services provided 3870
under section 5126.05, adult services provided under sections 3871
5126.05 and 5126.051, and service and support administration 3872
provided under section 5126.15 of the Revised Code, when local 3873
moneys are insufficient to meet the need for such services due to 3874
the successive failure within a two-year period of three or more 3875
proposed levies for the services; 3876

(7) Contracts with providers of residential services to 3877
maintain persons with mental retardation and developmental 3878
disabilities in their programs and avoid institutionalization. 3879

(C) If the trust fund contains more than ten million dollars 3880
on the first day of July the director shall use one million 3881
dollars for payments under section 5126.12 of the Revised Code, 3882
one million dollars for payments under section 5126.18 of the 3883
Revised Code, and two million dollars for payments under section 3884
5126.44 of the Revised Code. Distributions of funds under this 3885
division shall be made prior to August 31 of the state fiscal year 3886
in which the funds are available. The funds shall be ~~distributed~~ 3887
allocated to a county board in an amount equal to the same 3888
percentage of the total amount ~~distributed for the services that~~ 3889
allocated to the county board ~~received in~~ the immediately 3890
preceding state fiscal year. 3891

(D) In addition to making grants under division (A) of this 3892
section, the director may use money available in the trust fund 3893
for the same purposes that rules adopted under section 5123.0413 3894
of the Revised Code provide for money in the state MR/DD risk fund 3895
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. 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 4026
institutions that is used exclusively for charitable purposes 4027
shall be exempt from taxation, including real property belonging 4028
to a nonprofit corporation that receives a grant under the Thomas 4029
Alva Edison program authorized by division (C) of section 122.33 4030
of the Revised Code at any time during the tax year and being 4031
leased to others or held for leasing or resale to others. All 4032
property owned and used by a nonprofit organization exclusively 4033
for a home for the aged, as defined in section 5701.13 of the 4034
Revised Code, also shall be exempt from taxation. 4035

(C) If a home for the aged is operated in conjunction with or 4036
at the same site as independent living facilities, the exemption 4037
granted in division (B) of this section shall include kitchen, 4038
dining room, clinic, entry ways, maintenance and storage areas, 4039
and land necessary for access commonly used by both residents of 4040
the home for the aged and residents of the independent living 4041
facilities. Other facilities commonly used by both residents of 4042
the home for the aged and residents of independent living units 4043
shall be exempt from taxation only if the other facilities are 4044
used primarily by the residents of the home for the aged. Vacant 4045
land currently unused by the home, and independent living 4046
facilities and the lands connected with them are not exempt from 4047
taxation. Except as provided in division (A) of section 5709.121 4048
of the Revised Code, property of a home leased for nonresidential 4049
purposes is not exempt from taxation. 4050

(D)(1) A private corporation established under federal law, 4051
defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as 4052
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 4086
(D)(1) of this section sells all or any portion of a tract, lot, 4087
or parcel of real estate that has been exempt from taxation under 4088
this section and section 5709.121 of the Revised Code, the portion 4089

sold shall be restored to the tax list for the year following the 4090
year of the sale and a charge shall be levied against the sold 4091
property in an amount equal to the tax savings on such property 4092
during the four tax years preceding the year the property is 4093
placed on the tax list. The tax savings equals the amount of the 4094
additional taxes that would have been levied if such property had 4095
not been exempt from taxation. 4096

The charge constitutes a lien of the state upon such property 4097
as of the first day of January of the tax year in which the charge 4098
is levied and continues until discharged as provided by law. The 4099
charge may also be remitted for all or any portion of such 4100
property that the tax commissioner determines is entitled to 4101
exemption from real property taxation for the year such property 4102
is restored to the tax list under any provision of the Revised 4103
Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 4104
5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, 4105
upon an application for exemption covering the year such property 4106
is restored to the tax list filed under section 5715.27 of the 4107
Revised Code. 4108

(E) Real property held by an organization organized and 4109
operated exclusively for charitable purposes as described under 4110
section 501(c)(3) of the Internal Revenue Code and exempt from 4111
federal taxation under section 501(a) of the Internal Revenue 4112
Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose 4113
of constructing or rehabilitating residences for eventual transfer 4114
to qualified low-income families through sale, lease, or land 4115
installment contract, shall be exempt from taxation. 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 4149
the organization holding the property shall file with its 4150
application documentation substantiating its status as an 4151
organization organized and operated exclusively for charitable 4152
purposes under section 501(c)(3) of the Internal Revenue Code and 4153

its qualification for exemption from federal taxation under 4154
section 501(a) of the Internal Revenue Code, and affirming its 4155
intention to construct or rehabilitate the property for the 4156
eventual transfer to qualified low-income families. 4157

As used in this division, "qualified low-income family" means 4158
a family whose income does not exceed two hundred per cent of the 4159
official federal poverty guidelines as revised annually in 4160
accordance with section 673(2) of the "Omnibus Budget 4161
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as 4162
amended, for a family size equal to the size of the family whose 4163
income is being determined. 4164

Sec. 5709.121. Real property and tangible personal property 4165
belonging to a charitable or educational institution or to the 4166
state or a political subdivision, shall be considered as used 4167
exclusively for charitable or public purposes by such institution, 4168
the state, or political subdivision, if it meets one of the 4169
following requirements: 4170

(A) It is used by such institution, the state, or political 4171
subdivision, or by one or more other such institutions, the state, 4172
or political subdivisions under a lease, sublease, or other 4173
contractual arrangement: 4174

(1) As a community or area center in which presentations in 4175
music, dramatics, the arts, and related fields are made in order 4176
to foster public interest and education therein; 4177

(2) For other charitable, educational, or public purposes; 4178

(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 corporation 4184
receives a grant under the Thomas Alva Edison grant program 4185
authorized by division (C) of section 122.33 of the Revised Code 4186
at any time during the tax year, "used," for the purposes of this 4187
division, includes leasing property to others or holding property 4188
for lease or 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
407. 4210

Sec. 5709.40. (A) As used in this section~~+~~: 4211

(1) "Blighted area" and "impacted city" have the same 4212
meanings as in section 1728.01 of the Revised Code. 4213

(2) "Business day" means a day of the week excluding 4214
Saturday, Sunday, and a legal holiday as defined under section 4215
1.14 of the Revised Code. 4216

(3) "Housing renovation" means a project carried out for 4217
residential purposes. 4218

~~(2)~~(4) "Improvement" means the increase in the assessed value 4219
of ~~any~~ a parcel of real property that would first appear on the 4220
tax list and duplicate of real and public utility property 4221
~~subsequent to~~ after the effective date of an ordinance adopted 4222
under this section were it not for the exemption ~~specified~~ granted 4223
by that ordinance. "Improvement" does not include a public 4224
infrastructure improvement. 4225

(5) "Incentive district" means an area not more than three 4226
hundred acres in size enclosed by a continuous boundary and having 4227
one or more of the following distress characteristics: 4228

(a) At least fifty-one per cent of the residents of the 4229
district have incomes of less than eighty per cent of the median 4230
income of residents of the political subdivision in which the 4231
district is located, as determined in the same manner specified 4232
under section 119(b) of the "Housing and Community Development Act 4233
of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended; 4234

(b) The average rate of unemployment in the district during 4235
the most recent twelve-month period for which data are available 4236
is equal to at least one hundred fifty per cent of the average 4237
rate of unemployment for this state for the same period. 4238

(c) At least twenty per cent of the people residing in the 4239
district live at or below the poverty level as defined in the 4240
federal Housing and Community Development Act of 1974, 42 U.S.C. 4241
5301, as amended, and regulations adopted pursuant to that act. 4242

(d) The district is a blighted area. 4243

(e) The district is in a situational distress area as 4244
designated by the director of development under division (F) of 4245
section 122.23 of the Revised Code. 4246

(f) As certified by the engineer for the political 4247
subdivision, the public infrastructure serving the district is 4248
below the standards required by a written, comprehensive economic 4249
development plan adopted by the legislative authority of the 4250
subdivision. 4251

(g) The district is comprised entirely of unimproved land 4252
that is located in a distressed area as defined in section 122.23 4253
of the Revised Code. 4254

(6) "Project" means development activities undertaken on a 4255
parcel, including, but not limited to, construction, expansion, 4256
and alteration of buildings or structures, demolition, 4257
remediation, and site development, and the building or structure 4258
that results from those activities. 4259

(7) "Public infrastructure improvement" includes, but is not 4260
limited to, public roads and highways, water and sewer lines, 4261
remediation, land acquisition, demolition, the provision of gas, 4262
electric, and communications service facilities, and the 4263
enhancement of public waterways through improvements that allow 4264
for greater public access. 4265

(B) The legislative authority of a municipal corporation, by 4266
ordinance, may declare improvements to ~~a parcel~~ certain parcels of 4267
real property located in the municipal corporation to be a public 4268
purpose. Improvements used or to be used for residential purposes 4269
may be declared a public purpose under this ~~section~~ division only 4270
if ~~the~~ a parcel is located in a blighted area of an impacted city 4271
~~as those terms are defined in section 1728.01 of the Revised Code.~~ 4272
Except as otherwise provided in division ~~(B)(1), (2), or (3)~~(D) of 4273
this section, not more than seventy-five per cent of an 4274

improvement thus declared to be a public purpose may be exempted 4275
from real property taxation; the percentage exempted shall not, 4276
except as otherwise provided in that division ~~(B)(1), (2), or (3)~~ 4277
~~of this section~~, exceed the estimated percentage of the 4278
incremental demand placed on the public infrastructure 4279
improvements that is directly attributable to the exempted 4280
improvement. The ordinance shall specify the percentage of the 4281
improvement to be exempted from taxation. 4282

An ordinance adopted or amended under this division shall 4283
designate the specific public infrastructure improvements made, to 4284
be made, or in the process of being made by the municipal 4285
corporation that directly benefit, or that once made will directly 4286
benefit, a parcel. For the purposes of this division, a public 4287
infrastructure improvement directly benefits a parcel only if a 4288
project on the parcel places direct, additional demand on the 4289
public infrastructure improvement or, if the public infrastructure 4290
improvement has not yet been completed, will place direct, 4291
additional demand on the public infrastructure improvement once it 4292
is completed. The service payments provided for in section 5709.42 4293
of the Revised Code shall be used to finance the public 4294
infrastructure improvements designated in the ordinance or for the 4295
purpose described in division (D)(1) of this section. 4296

(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.

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An ordinance under this division shall specify the life of the district and the percentage of the improvements to be exempted and shall designate the public infrastructure improvements made or to be made that benefit or serve parcels in the district. The service payments provided for in section 5709.42 of the Revised Code shall be used to finance the designated public infrastructure improvements or for the purpose described in division (D)(1) of this section.

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An ordinance adopted under this division may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of housing renovations within the district, provided that the ordinance 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 ordinance shall designate the parcels within the district that are eligible for housing renovation. The ordinance 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.

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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.

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Approval of a board of education shall be obtained in the 4339
manner provided in division (D) of this section for exemptions 4340
under division (B) of this section, except that the notice to the 4341
board of education shall delineate the boundaries of the district, 4342
specifically identify each parcel within the district, identify 4343
each anticipated improvement in the district, provide an estimate 4344
of the true value in money of each such improvement, specify the 4345
life of the district and the percentage of improvements that would 4346
be exempted, and indicate the date on which the legislative 4347
authority intends to adopt the ordinance. 4348

A municipal corporation shall not adopt an ordinance under 4349
this division after June 30, 2007. 4350

(D)(1) If the ordinance declaring improvements to a parcel to 4351
be a public purpose or creating an incentive district specifies 4352
that payments in lieu of taxes provided for in section 5709.42 of 4353
the Revised Code shall be paid to the city, local, or exempted 4354
village school district in which the parcel is located in the 4355
amount of the taxes that would have been payable to the school 4356
district if the improvements had not been exempted from taxation, 4357
the percentage of the improvement that may be exempted from 4358
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, provide an estimate of the true value in 4377
money of the improvements, specify the period for which the 4378
improvements would be exempted from taxation and the percentage of 4379
the improvement that would be exempted, and indicate the date on 4380
which the legislative authority intends to adopt the ordinance. 4381
The board of education, by resolution adopted by a majority of the 4382
board, may approve the exemption for the period or for the 4383
exemption percentage specified in the notice, may disapprove the 4384
exemption for the number of years in excess of ten, may disapprove 4385
the exemption for the percentage of the improvement to be exempted 4386
in excess of seventy-five per cent, or both, or may approve the 4387
exemption on the condition that the legislative authority and the 4388
board negotiate an agreement providing for compensation to the 4389
school district equal in value to a percentage of the amount of 4390
taxes exempted in the eleventh and subsequent years of the 4391
exemption period or, in the case of exemption percentages in 4392
excess of seventy-five per cent, compensation equal in value to a 4393
percentage of the taxes that would be payable on the portion of 4394
the improvement in excess of seventy-five per cent were that 4395
portion to be subject to taxation. The board of education shall 4396
certify its resolution to the legislative authority not later than 4397
fourteen days prior to the date the legislative authority intends 4398
to adopt the ordinance as indicated in the notice. If the board of 4399
education approves the exemption on the condition that a 4400
compensation agreement be negotiated, the board in its resolution 4401
shall propose a compensation percentage. If the board of education 4402
and the legislative authority negotiate a mutually acceptable 4403

compensation agreement, the ordinance may declare the improvements 4404
a public purpose for the number of years specified in the 4405
ordinance or, in the case of exemption percentages in excess of 4406
seventy-five per cent, for the exemption percentage specified in 4407
the ordinance. In either case, if the board and the legislative 4408
authority fail to negotiate a mutually acceptable compensation 4409
agreement, the ordinance may declare the improvements a public 4410
purpose for not more than ten years, but shall not exempt more 4411
than seventy-five per cent of the improvements from taxation, or, 4412
in the case of an ordinance adopted under division (B) of this 4413
section, not more than the estimated percentage of the incremental 4414
demand as otherwise permitted under prescribed by division (B)(1) 4415
of this section, whichever is if that percentage is less than 4416
seventy-five per cent. If the board fails to certify a resolution 4417
to the legislative authority within the time prescribed by this 4418
division, the legislative authority thereupon may adopt the 4419
ordinance and may declare the improvements a public purpose for up 4420
to thirty years, or, in the case of exemption percentages proposed 4421
in excess of seventy-five per cent, for the exemption percentage 4422
specified in the ordinance. The legislative authority may adopt 4423
the ordinance at any time after the board of education certifies 4424
its resolution approving the exemption to the legislative 4425
authority, or, if the board approves the exemption on the 4426
condition that a mutually acceptable compensation agreement be 4427
negotiated, at any time after the compensation agreement is agreed 4428
to by the board and the legislative authority. 4429

(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
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. An exemption~~ 4464
may end on a later date, as specified in the ordinance, if the 4465
legislative authority and the board of education of the city, 4466
local, or exempted village school district within the territory of 4467
which the exempted improvement is located have entered into a 4468

compensation agreement under section 5709.82 of the Revised Code 4469
with respect to the improvement or district and the board of 4470
education has approved the term of the exemption under division 4471
~~(B)(D)(2)~~ of this section. ~~If the legislative authority and the~~ 4472
~~board of education have entered into such an agreement, the~~ 4473
~~exemption may end on a date, specified in the ordinance, later~~ 4474
~~than the date on which the improvements are paid in full from the~~ 4475
~~municipal public improvement tax increment equivalent fund, but in~~ 4476
no case shall the improvement be exempted from taxation for more 4477
than thirty years. ~~The exemption~~ Exemptions shall be claimed and 4478
allowed in the same manner as in the case of other real property 4479
exemptions. If an exemption status changes during a year, the 4480
procedure for the apportionment of the taxes for that year is the 4481
same as in the case of other changes in tax exemption status 4482
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~~ 4489
~~improvement, or, if the public improvement has not yet been~~ 4490
~~constructed, will place direct, additional demand on the public~~ 4491
~~improvement when completed. The service payments provided for in~~ 4492
~~section 5709.42 of the Revised Code shall be used to finance the~~ 4493
~~public improvements designated in the ordinance. (F) Additional~~ 4494
municipal financing of the public infrastructure improvements and 4495
housing renovations may be provided by any methods that the 4496
municipal corporation may otherwise use for financing such 4497
improvements. If the municipal corporation issues bonds or notes 4498
to finance the public infrastructure improvements and housing 4499
renovations and pledges money from the municipal public 4500
improvement tax increment equivalent fund to pay the interest on 4501

and principal of the bonds or notes, the bonds or notes are not 4502
subject to Chapter 133. of the Revised Code. 4503

~~(E)~~(G) The municipal corporation, not later than fifteen days 4504
after the adoption of ~~the~~ an ordinance ~~granting a tax exemption~~ 4505
under this section, shall submit to the director of development a 4506
copy of the ordinance. On or before the thirty-first day of March 4507
of each year, the municipal corporation shall submit a status 4508
report to the director of development ~~outlining~~. The report shall 4509
indicate, in the manner prescribed by the director, the progress 4510
of the project during each year that ~~the~~ an exemption remains in 4511
effect, including a summary of the receipts from service payments 4512
in lieu of taxes; expenditures of money from the funds created 4513
under section 5709.43 of the Revised Code; a description of the 4514
public infrastructure improvements and housing renovations 4515
financed with such expenditures; and a quantitative summary of 4516
changes in employment and private investment resulting from each 4517
project. 4518

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
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 4611
which the fund is established. 4612

(C) A municipal corporation also may distribute money in the 4613
municipal public improvement tax increment equivalent fund or the 4614
urban redevelopment tax increment equivalent fund to any school 4615
district in which the exempt property is located in an amount not 4616
to exceed the amount of real property taxes that such school 4617
district would have received from the improvement if it were not 4618
exempt from taxation or use money in either or both funds to 4619
finance specific public improvements benefiting the school 4620
district. The resolution or ordinance establishing the fund shall 4621
set forth the percentage of such maximum amount that will be 4622
distributed to any affected school district or used to finance 4623
specific public improvements benefiting the school district. 4624

(D) Any incidental surplus remaining in the municipal public 4625
improvement tax increment equivalent fund or an account of that 4626
fund, or in the urban redevelopment tax increment equivalent fund, 4627
upon ~~its~~ dissolution of the account or fund shall be transferred 4628

to the general fund of the municipal corporation. 4629

Sec. 5709.73. (A) As used in this section and section 5709.74 4630
of the Revised Code: 4631

(1) "Business day" means a day of the week excluding 4632
Saturday, Sunday, and a legal holiday as defined in section 1.14 4633
of the Revised Code. 4634

(2) "Further improvements" or "improvements" means the 4635
increase in the true value of ~~the a~~ parcel of real property ~~in the~~ 4636
~~unincorporated territory of the township that would first appear~~ 4637
~~on the tax list and duplicate of real and public utility property~~ 4638
after the effective date of a resolution adopted under ~~division~~ 4639
~~(B)(1) of this section were it not for the exemption granted by~~ 4640
~~that resolution. "Further improvements" does~~ For purposes of 4641
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.

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A board of township trustees shall not adopt a resolution
under this division after June 30, 2007.

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(D) Improvements with respect to a parcel may be exempted
from taxation under division (B) 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 trustees 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~~,
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 trustees 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 trustees and the
board of education negotiate an agreement providing for
compensation to the school district equal in value to a percentage
of the amount of taxes exempted in the eleventh and subsequent

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years of the exemption period or, in the case of exemption 4755
percentages in excess of seventy-five per cent, compensation equal 4756
in value to a percentage of the taxes that would be payable on the 4757
portion of the improvements in excess of seventy-five per cent 4758
were that portion to be subject to taxation. The board of 4759
education shall certify its resolution to the board of trustees 4760
not later than fourteen days prior to the date the board of 4761
trustees intends to adopt the resolution as indicated in the 4762
notice. If the board of education approves the exemption on the 4763
condition that a compensation agreement be negotiated, the board 4764
of education in its resolution shall propose a compensation 4765
percentage. If the board of education and the board of trustees 4766
negotiate a mutually acceptable compensation agreement, the 4767
resolution may declare the improvements a public purpose for the 4768
number of years specified in the resolution or, in the case of 4769
exemption percentages in excess of seventy-five per cent, for the 4770
exemption percentage specified in the resolution. In either case, 4771
if the board of education and the board of trustees fail to 4772
negotiate a mutually acceptable compensation agreement, the 4773
resolution may declare the improvements a public purpose for not 4774
more than ten years, but shall not exempt more than seventy-five 4775
per cent of the improvements from taxation, or, in the case of a 4776
resolution adopted under division (B) of this section, not more 4777
than the estimated percentage of the incremental demand as 4778
otherwise ~~permitted under prescribed by~~ prescribed by division (B)~~(1)~~ of this 4779
section, ~~whichever is~~ if that percentage is less than seventy-five 4780
per cent. If the board of education fails to certify a resolution 4781
to the board of trustees within the time prescribed by this 4782
section, the board of trustees thereupon may adopt the resolution 4783
and may declare the improvements a public purpose for up to thirty 4784
years or, in the case of exemption percentages proposed in excess 4785
of seventy-five per cent, for the exemption percentage specified 4786
in the resolution. The board of township trustees may adopt the 4787

resolution at any time after the board of education certifies its 4788
resolution approving the exemption to the board of township 4789
trustees, or, if the board of education approves the exemption on 4790
the condition that a mutually acceptable compensation agreement be 4791
negotiated, at any time after the compensation agreement is agreed 4792
to by the board of education and the board of township trustees. 4793

~~(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
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

~~(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. An exemption may end on a later~~ 4832
~~date, as specified in the resolution, if~~ the board of township 4833
trustees and the board of education of the city, local, or 4834
exempted village school district within the territory of which the 4835
exempted improvement is located have entered into a compensation 4836
agreement under section 5709.82 of the Revised Code with respect 4837
to the improvement or district and the board of education has 4838
approved the term of the exemption under division ~~(B)(2)(D)~~ of 4839
this section. ~~If the board of township trustees and the board of~~ 4840
~~education have entered into such an agreement, the exemption may~~ 4841
~~end on a date, specified in the resolution, later than the date on~~ 4842
~~which the improvements are paid in full from the township public~~ 4843
~~improvement tax increment equivalent fund, but in no case shall~~ 4844
the improvement be exempted from taxation for more than thirty 4845
years. The board of township trustees may, by majority vote, adopt 4846
a resolution ~~which permits~~ permitting the township to enter into 4847
such agreements as the board finds necessary or appropriate to 4848
provide for the construction or undertaking of public 4849
infrastructure improvements and housing renovations. Any exemption 4850
shall be claimed and allowed in the same or a similar manner as in 4851
the case of other real property exemptions. If an exemption status 4852

changes during a tax year, the procedure for the apportionment of 4853
the taxes for that year is the same as in the case of other 4854
changes in tax exemption status during the year. 4855

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(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. 4885

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 4911
cost of ~~the~~ any public infrastructure improvements it made on the 4912
parcel. The treasurer shall maintain a record of the service 4913
payments in lieu of taxes made from property in each township. 4914

Nothing in this section or section 5709.73 of the Revised 4915
Code affects the taxes levied against that portion of the value of 4916

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 infrastructure improvements designated, or the housing renovations authorized, for each district created in the resolution. Money in an account shall not be used to finance or support housing renovations that take place after the district has expired. The township may also distribute money in the fund such an account to

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, a parcel. For 5009
the purposes of this division, a public infrastructure improvement 5010

directly benefits a parcel only if a project on the parcel places 5011
direct, additional demand on the public infrastructure improvement 5012
or, if the public infrastructure improvement has not yet been 5013
completed, will place direct, additional demand on the public 5014
infrastructure improvement once it is completed. The service 5015
payments provided for in section 5709.79 of the Revised Code shall 5016
be used to finance the public infrastructure improvements 5017
designated in the resolution. 5018

(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 5037
use of service payments provided for in section 5709.79 of the 5038
Revised Code for the purpose of housing renovations within the 5039
district, provided that the resolution also designates public 5040
infrastructure improvements that benefit or serve the district, 5041
and that a project within the district places real property in use 5042

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.

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 (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
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~~ 5075
which the ~~improvements are or will be~~ parcel is located, for up to 5076
thirty years. The percentage of the improvements exempted from 5077
taxation may, with such approval, exceed seventy-five per cent, 5078
but shall not exceed one hundred per cent. Not later than 5079
forty-five business days prior to adopting a resolution under this 5080
section declaring improvements to be a public purpose, the board 5081
of county commissioners shall deliver to the board of education a 5082
notice stating its intent to ~~declare improvements to be a public~~ 5083
~~purpose under this section~~ adopt a resolution making that 5084
declaration. The notice shall ~~describe~~ identify the parcel ~~and the~~ 5085
~~improvements~~, provide an estimate of the true value in money of 5086
the improvements, specify the period for which the improvements 5087
would be exempted from taxation and the percentage of the 5088
improvements that would be exempted, and indicate the date on 5089
which the board of county commissioners intends to adopt the 5090
resolution. The board of education, by resolution adopted by a 5091
majority of the board, may approve the exemption for the period or 5092
for the exemption percentage specified in the notice, may 5093
disapprove the exemption for the number of years in excess of ten, 5094
may disapprove the exemption for the percentage of the 5095
improvements to be exempted in excess of seventy-five per cent, or 5096
both, or may approve the exemption on the condition that the board 5097
of county commissioners and the board of education negotiate an 5098
agreement providing for compensation to the school district equal 5099
in value to a percentage of the amount of taxes exempted in the 5100
eleventh and subsequent years of the exemption period or, in the 5101
case of exemption percentages in excess of seventy-five per cent, 5102
compensation equal in value to a percentage of the taxes that 5103
would be payable on the portion of the improvements in excess of 5104
seventy-five per cent were that portion to be subject to taxation. 5105
The board of education shall certify its resolution to the board 5106
of county commissioners not later than fourteen days prior to the 5107

date the board of county commissioners intends to adopt its 5108
resolution as indicated in the notice. If the board of education 5109
approves the exemption on the condition that a compensation 5110
agreement be negotiated, the board of education in its resolution 5111
shall propose a compensation percentage. If the board of education 5112
and the board of county commissioners negotiate a mutually 5113
acceptable compensation agreement, the resolution of the board of 5114
county commissioners may declare the improvements a public purpose 5115
for the number of years specified in that resolution or, in the 5116
case of exemption percentages in excess of seventy-five per cent, 5117
for the exemption percentage specified in the resolution. In 5118
either case, if the board of education and the board of county 5119
commissioners fail to negotiate a mutually acceptable compensation 5120
agreement, the resolution may declare the improvements a public 5121
purpose for not more than ten years, but shall not exempt more 5122
than seventy-five per cent of the improvements from taxation, or, 5123
in the case of a resolution adopted under division (A) of this 5124
section, not more than the estimated percentage of the incremental 5125
demand as otherwise permitted under prescribed by division (A)(1) 5126
of this section, whichever if that percentage is less than 5127
seventy-five per cent. If the board of education fails to certify 5128
a resolution to the board of county commissioners within the time 5129
prescribed by this section, the board of county commissioners 5130
thereupon may adopt the resolution and may declare the 5131
improvements a public purpose for up to thirty years or, in the 5132
case of exemption percentages proposed in excess of seventy-five 5133
per cent, for the exemption percentage specified in the 5134
resolution. The board of county commissioners may adopt the 5135
resolution at any time after the board of education certifies its 5136
resolution approving the exemption to the board of county 5137
commissioners, or, if the board of education approves the 5138
exemption on the condition that a mutually acceptable compensation 5139
agreement be negotiated, at any time after the compensation 5140

agreement is agreed to by the board of education and the board of
county commissioners.

~~(3)~~(2) If a board of education has adopted a resolution
waiving its right to approve exemptions from taxation and the
resolution remains in effect, approval of such exemptions by the
board of education is not required under division ~~(A)~~(2)(C)(1) of
this section. If a board of education has adopted a resolution
allowing a board of county commissioners to deliver the notice
required under division ~~(B)~~(2)(C)(1) of this section fewer than
forty-five business days prior to approval of the resolution by
the board of county commissioners, the board of county
commissioners shall deliver the notice to the board of education
not later than the number of days prior to such approval as
prescribed by the board of education in its resolution. If a board
of education adopts a resolution waiving its right to approve
exemptions or shortening the notification period, the board of
education shall certify a copy of the resolution to the board of
county commissioners. If the board of education rescinds such a
resolution, it shall certify notice of the rescission to the board
of county commissioners.

~~(B)~~The (D) An exemption from taxation granted under this
section commences on with the tax year in which an improvement
first appears on the tax list and duplicate of real and public
utility property and that begins after the effective date of the
resolution ~~and. Except as otherwise provided in this division, the~~
exemption ends on the date specified in the resolution as the date
the improvement ceases to be a public purpose or the incentive
district expires, or ends on the date on which the county can no
longer require annual service payments in lieu of taxes under
section 5709.79 of the Revised Code, whichever occurs first,
~~unless. An exemption may end on a later date, as specified in the~~
resolution, if the board of commissioners and the board of

education of the city, local, or exempted village school district 5173
within ~~the territory of~~ which the exempted improvement is located 5174
have entered into a compensation agreement under section 5709.82 5175
of the Revised Code with respect to the improvement or district 5176
and the board of education has approved the term of the exemption 5177
under division ~~(A)(2)(C)(1)~~ of this section. ~~If the board of~~ 5178
~~commissioners and the board of education have entered into such an~~ 5179
~~agreement, the exemption may end on a date, specified in the~~ 5180
~~resolution, later than the date on which the county can no longer~~ 5181
~~require annual service payments in lieu of taxes, but in no case~~ 5182
shall the ~~improvements~~ improvement be exempted from taxation for 5183
more than thirty years. ~~The exemption~~ Exemptions shall be claimed 5184
and allowed in the same or a similar manner as in the case of 5185
other real property exemptions. If an exemption status changes 5186
during a tax year, the procedure for the apportionment of the 5187
taxes for that year is the same as in the case of other changes in 5188
tax exemption status during the year. 5189

~~(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~~ 5196
~~has not yet been constructed, will place direct, additional demand~~ 5197
~~on the public improvement when completed. The service payments~~ 5198
~~provided for in section 5709.79 of the Revised Code shall be used~~ 5199
~~to finance the public infrastructure improvements designated in~~ 5200
~~the resolution. Additional county financing of the public~~ 5201
~~infrastructure improvements may be provided by any methods that~~ 5202
~~counties are otherwise permitted to use for financing such~~ 5203
~~improvements.~~ 5204

~~(D)~~(E) If the board of county commissioners is not required 5205
by ~~division (A)(2)~~ of this section to notify the board of 5206
education of the board of county commissioners' intent to declare 5207
improvements to be a public purpose, the board of county 5208
commissioners shall comply with the notice requirements imposed 5209
under section 5709.83 of the Revised Code before taking formal 5210
action to adopt the resolution making that declaration, unless the 5211
board of education has adopted a resolution under that section 5212
waiving its right to receive such a notice. 5213

~~(E)~~(F) The county, not later than fifteen days after the 5214
adoption of a resolution ~~granting a tax exemption~~ under this 5215
section, shall submit to the director of development a copy of the 5216
resolution. On or before the thirty-first day of March of each 5217
year, the county shall submit a status report to the director of 5218
development outlining. The report shall indicate, in the manner 5219
prescribed by the director, the progress of the project during 5220
each year that the an exemption remains in effect, including a 5221
summary of the receipts from service payments in lieu of taxes; 5222
expenditures of money from funds created under section 5709.75 of 5223
the Revised Code; a description of the public infrastructure 5224
improvements and housing renovations financed with such 5225
expenditures; and a quantitative summary of changes in employment 5226
and private investment resulting from each project. 5227

Sec. 5709.79. A board of county commissioners that adopts a 5228
resolution under section 5709.78 of the Revised Code shall in the 5229
resolution require that the owner of the improvement make annual 5230
service payments in lieu of taxes to the county treasurer on or 5231
before the final dates for payment of real property taxes. Each 5232
such payment shall be charged and collected in the same manner and 5233
in the same amount as the real property taxes that would have been 5234
charged and payable against the improvement if its value were not 5235
exempt from taxation. If any reduction in the levies otherwise 5236

applicable to the improvement is made by the county budget 5237
commission under section 5705.31 of the Revised Code, the amount 5238
of the service payment in lieu of taxes shall be calculated as if 5239
the reduction in levies had not been made. 5240

The county shall not require the owner to make annual service 5241
payments in lieu of taxes pursuant to this section after the date 5242
on which one of the following occurs: 5243

(A) If bonds or notes were not issued under section 307.082 5244
or 5709.81 of the Revised Code for any public infrastructure 5245
improvements benefiting the ~~tract~~ parcel on which the improvement 5246
is located, or for any housing renovations within an incentive 5247
district, and if service payments were not pledged pursuant to 5248
division (B) of section 5709.81 of the Revised Code, the date the 5249
county has collected sufficient money in the applicable account of 5250
the redevelopment tax equivalent fund to pay the cost of 5251
constructing or repairing the public infrastructure improvements 5252
designated in, or the housing renovations authorized by, the 5253
resolution adopted under section 5709.78 of the Revised Code; 5254

(B) If service payments were pledged under division (B) of 5255
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
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. 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 5439
economic development zones created under section 715.691 of the 5440
Revised Code, and joint economic development districts created 5441
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 5442
Revised Code in this state to impose an income tax on the income 5443
of such corporations. 5444

(F) If two or more taxpayers satisfy the ownership or control 5445
requirements of division (A) of section 5733.052 of the Revised 5446
Code, each such taxpayer shall substitute "the taxpayer's pro-rata 5447
amount" for "fifty thousand dollars" in divisions (A) and (B) of 5448
this section. For purposes of this division, "the taxpayer's 5449
pro-rata amount" is an amount that, when added to the other such 5450
taxpayers' pro-rata amounts, does not exceed fifty thousand 5451
dollars. For the purpose of making that computation, the 5452
taxpayer's pro-rata amount shall not be less than zero. Nothing in 5453
this division derogates from or eliminates the requirement to make 5454
the alternative computation of tax under division (C) of this 5455
section. 5456

(G) The tax liability of any corporation under division (C) 5457

of this section shall not exceed one hundred fifty thousand 5458
dollars. 5459

(H)(1) For the purposes of division (H) of this section, 5460
"exiting corporation" means a corporation that satisfies all of 5461
the following conditions: 5462

(a) The corporation had nexus with or in this state under the 5463
Constitution of the United States during any portion of a calendar 5464
year; 5465

(b) The corporation was not a corporation described in 5466
division (A) of section 5733.01 of the Revised Code on the first 5467
day of January immediately following that calendar year; 5468

(c) The corporation was not a financial institution on the 5469
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,
5733.03, 5733.031, or 5733.053 of the Revised Code and that was
realized or recognized during the calendar year to which division
(H)(1) of this section refers or the immediately preceding
calendar year.

(3) Each exiting corporation shall pay a tax computed by
first allocating and apportioning the unreported net income
pursuant to division (B) of section 5733.05 and section 5733.051
and, if applicable, section 5733.052 of the Revised Code. The
exiting corporation then shall compute the tax due on its
unreported net income allocated and apportioned to this state by
applying divisions (A), (B), and (F) of this section to that
income.

(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 5520
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 5521
any transfer, as defined in section 5733.053 of the Revised Code, 5522
for which negotiations began prior to January 1, 2001, and that 5523
was commenced in and completed during calendar year 2001, unless 5524
the taxpayer makes an election prior to December 31, 2001, to 5525
apply those amendments. 5526

(8) The tax commissioner may adopt rules governing division 5527
(H) of this section. 5528

(I) Any reference in the Revised Code to "the tax imposed by 5529
section 5733.06 of the Revised Code" or "the tax due under section 5530
5733.06 of the Revised Code" includes the taxes imposed under 5531
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
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. 5733.11. (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 5624
assessment remains unpaid, including accrued interest, a certified 5625
copy of the commissioner's entry making the assessment final may 5626
be filed in the office of the clerk of the court of common pleas 5627
in the county in which the corporation has an office or place of 5628
business in this state, the county in which the corporation's 5629
statutory agent is located, or Franklin county. 5630

Immediately upon the filing of the entry, the clerk shall 5631
enter a judgment against the corporation assessed in the amount 5632
shown on the entry. The judgment may be filed by the clerk in a 5633
loose-leaf book entitled "special judgments for state corporate 5634
franchise and litter taxes," and shall have the same effect as 5635
other judgments. Execution shall issue upon the judgment upon the 5636
request of the tax commissioner, and all laws applicable to sales 5637
on execution shall apply to sales made under the judgment. 5638

The portion of an assessment not paid within sixty days after 5639
the day the assessment was issued shall bear interest at the rate 5640
per annum prescribed by section 5703.47 of the Revised Code from 5641
the day the tax commissioner issues the assessment until the 5642
assessment is paid. Interest shall be paid in the same manner as 5643
the tax and may be collected by issuing an assessment under this 5644

section. 5645

(D) All money collected under this section shall be 5646
considered as revenue arising from the taxes imposed by this 5647
chapter. 5648

(E) The portion of an assessment which must be paid upon the 5649
filing of a petition for reassessment shall be as follows: 5650

(1) If the sole item objected to is the assessed penalty or 5651
interest, payment of the assessment, including interest but not 5652
penalty, is required; 5653

(2) If the corporation assessed failed to file, prior to the 5654
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 5687
assessment that is the subject of the petition. The acceptance of 5688
a payment by the treasurer of state does not prejudice any claim 5689
for refund upon final determination of the petition. 5690

If upon final determination of the petition an error in the 5692
assessment is corrected by the commissioner, upon petition so 5693
filed or pursuant to a decision of the board of tax appeals or any 5694
court to which the determination or decision has been appealed, so 5695
that the amount due from the corporation under the corrected 5696
assessment is less than the portion paid, there shall be issued to 5697
the corporation, its assigns, or legal representative a refund in 5698
the amount of the overpayment as provided by section 5733.12 of 5699
the Revised Code, with interest on that amount as provided by 5700
section 5733.26 of the Revised Code, subject to section 5733.121 5701
of the Revised Code. 5702

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 Code:	5707 5708
(1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;	5709 5710
(2) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;	5711 5712
(3) The subsidiary corporation credit under section 5733.067 of the Revised Code;	5713 5714
(4) The savings and loan assessment credit under section 5733.063 of the Revised Code;	5715 5716
(5) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	5717 5718
(6) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	5719 5720
(7) The credit for employers that reimburse employee child day-care expenses under section 5733.38 of the Revised Code;	5721 5722
(8) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	5723 5724 5725
(9) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	5726 5727
(10) <u>The job retention credit under division (B) of section 5733.0610 of the Revised Code;</u>	5728 5729
<u>(11)</u> The credit for manufacturing investments under section 5733.061 of the Revised Code;	5730 5731
(11) <u>(12)</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>(13)</u> The second credit for purchases of new manufacturing	5735

machinery and equipment under section 5733.33 of the Revised Code; 5736
5737

~~(13)~~(14) The job training credit under section 5733.42 of the 5738
Revised Code; 5739

~~(14)~~(15) The credit for qualified research expenses under 5740
section 5733.351 of the Revised Code; 5741

~~(15)~~(16) The enterprise zone credit under section 5709.66 of 5742
the Revised Code; 5743

~~(16)~~(17) The credit for the eligible costs associated with a 5744
voluntary action under section 5733.34 of the Revised Code; 5745

~~(17)~~(18) The credit for employers that establish on-site 5746
child day-care under section 5733.37 of the Revised Code; 5747

~~(18)~~(19) The credit for purchases of qualifying grape 5748
production property under section 5733.32 of the Revised Code; 5749

~~(19)~~(20) The export sales credit under section 5733.069 of 5750
the Revised Code; 5751

~~(20)~~(21) The credit for research and development and 5752
technology transfer investors under section 5733.35 of the Revised 5753
Code; 5754

~~(21)~~(22) The enterprise zone credits under section 5709.65 of 5755
the Revised Code; 5756

~~(22)~~(23) The credit for using Ohio coal under section 5733.39 5757
of the Revised Code; 5758

~~(23)~~(24) 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
professional, insurance, or personal service transactions that 5861
involve the transfer of tangible personal property as an 5862
inconsequential element, for which no separate charges are made. 5863

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 5892
this section, the telecommunications service vendor that provides 5893
the nine hundred telephone service; if two or more persons are 5894
engaged in business at the same place of business under a single 5895
trade name in which all collections on account of sales by each 5896
are made, such persons shall constitute a single vendor. 5897

Physicians, dentists, hospitals, and veterinarians who are 5898
engaged in selling tangible personal property as received from 5899
others, such as eyeglasses, mouthwashes, dentifrices, or similar 5900
articles, are vendors. Veterinarians who are engaged in 5901
transferring to others for a consideration drugs, the dispensing 5902
of which does not require an order of a licensed veterinarian or 5903
physician under federal law, are vendors. 5904

(D)(1) "Consumer" means the person for whom the service is 5905
provided, to whom the transfer effected or license given by a sale 5906
is or is to be made or given, to whom the service described in 5907
division (B)(3)(f) or (i) of this section is charged, or to whom 5908
the admission is granted. 5909

(2) Physicians, dentists, hospitals, and blood banks operated 5910
by nonprofit institutions and persons licensed to practice 5911
veterinary medicine, surgery, and dentistry are consumers of all 5912
tangible personal property and services purchased by them in 5913
connection with the practice of medicine, dentistry, the rendition 5914
of hospital or blood bank service, or the practice of veterinary 5915
medicine, surgery, and dentistry. In addition to being consumers 5916

of drugs administered by them or by their assistants according to 5917
their direction, veterinarians also are consumers of drugs that 5918
under federal law may be dispensed only by or upon the order of a 5919
licensed veterinarian or physician, when transferred by them to 5920
others for a consideration to provide treatment to animals as 5921
directed by the veterinarian. 5922

(3) A person who performs a facility management, or similar 5923
service contract for a contractee is a consumer of all tangible 5924
personal property and services purchased for use in connection 5925
with the performance of such contract, regardless of whether title 5926
to any such property vests in the contractee. The purchase of such 5927
property and services is not subject to the exception for resale 5928
under division (E)(1) of this section. 5929

(4)(a) In the case of a person who purchases printed matter 5930
for the purpose of distributing it or having it distributed to the 5931
public or to a designated segment of the public, free of charge, 5932
that person is the consumer of that printed matter, and the 5933
purchase of that printed matter for that purpose is a sale. 5934

(b) In the case of a person who produces, rather than 5935
purchases, printed matter for the purpose of distributing it or 5936
having it distributed to the public or to a designated segment of 5937
the public, free of charge, that person is the consumer of all 5938
tangible personal property and services purchased for use or 5939
consumption in the production of that printed matter. That person 5940
is not entitled to claim exception under division (E)(8) of this 5941
section for any material incorporated into the printed matter or 5942
any equipment, supplies, or services primarily used to produce the 5943
printed matter. 5944

(c) The distribution of printed matter to the public or to a 5945
designated segment of the public, free of charge, is not a sale to 5946
the members of the public to whom the printed matter is 5947
distributed or to any persons who purchase space in the printed 5948

matter for advertising or other purposes. 5949

(5) A person who makes sales of any of the services listed in 5950
division (B)(3) of this section is the consumer of any tangible 5951
personal property used in performing the service. The purchase of 5952
that property is not subject to the resale exception under 5953
division (E)(1) of this section. 5954

(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 performance of an obligation of the vendor;
- (4) To use or consume the thing transferred in the process of reclamation as required by Chapters 1513. and 1514. of the Revised Code;
- (5) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;
- (6) To use or consume the thing directly in commercial fishing;
- (7) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;
- (8) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;
- (9) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;
- (10) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as defined in division (B)(7) of this section, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would be exempt on its purchase from the tax imposed by section 5739.02 of the Revised Code;
- (11) To use the thing transferred as qualified research and development equipment;
- (12) To use or consume the thing transferred primarily in

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 6017
public highways. As used in division (E)(12) of this section, 6018
"affiliated group" has the same meaning as in division (B)(3)(e) 6019
of this section and "direct marketing" has the same meaning as in 6020
division (B)(37) of section 5739.02 of the Revised Code. 6021

(13) To use or consume the thing transferred to fulfill a 6022
contractual obligation incurred by a warrantor pursuant to a 6023
warranty provided as a part of the price of the tangible personal 6024
property sold or by a vendor of a warranty, maintenance or service 6025
contract, or similar agreement the provision of which is defined 6026
as a sale under division (B)(7) of this section; 6027

(14) To use or consume the thing transferred in the 6028
production of a newspaper for distribution to the public; 6029

(15) To use tangible personal property to perform a service 6030
listed in division (B)(3) of this section, if the property is or 6031
is to be permanently transferred to the consumer of the service as 6032
an integral part of the performance of the service. 6033

As used in division (E) of this section, "thing" includes all 6034
transactions included in divisions (B)(3)(a), (b), and (e) of this 6035
section. 6036

Sales conducted through a coin-operated device that activates 6037
vacuum equipment or equipment that dispenses water, whether or not 6038
in combination with soap or other cleaning agents or wax, to the 6039
consumer for the consumer's use on the premises in washing, 6040

cleaning, or waxing a motor vehicle, provided no other personal 6041
property or personal service is provided as part of the 6042
transaction, are not retail sales or sales at retail. 6043

(F) "Business" includes any activity engaged in by any person 6044
with the object of gain, benefit, or advantage, either direct or 6045
indirect. "Business" does not include the activity of a person in 6046
managing and investing the person's own funds. 6047

(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 sale or lease of any passenger car, 6113
noncommercial motor vehicle, recreational vehicle, watercraft, 6114
outboard motor, or aircraft, the sales tax shall be collected by 6115
the lessor at the time the sale is consummated and shall be 6116
calculated by the lessor on the basis of the total amount to be 6117
paid by the lessee under the lease agreement. In the case of an 6118
open-end lease, the sales tax shall be calculated by the lessor on 6119
the basis of the total amount to be paid during the initial fixed 6120
term of the lease, and then for each subsequent renewal period as 6121
it comes due. 6122

As used in ~~division~~ divisions (H)(3) and (4) of this section, 6123
"passenger car," "noncommercial motor vehicle," and "recreational 6124
vehicle" have the same meanings as in section 4501.01 of the 6125
Revised Code, and "watercraft" includes an outdrive unit attached 6126
to the watercraft. 6127

(I) "Receipts" means the total amount of the prices of the 6128
sales of vendors, provided that cash discounts allowed and taken 6129
on sales at the time they are consummated are not included, minus 6130
any amount deducted as a bad debt pursuant to section 5739.121 of 6131
the Revised Code. "Receipts" does not include the sale price of 6132
property returned or services rejected by consumers when the full 6133
sale price and tax are refunded either in cash or by credit. 6134

(J) "Place of business" means any location at which a person 6135
engages in business. 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 6200
respect to a county that is a transit authority, the fiscal 6201
officer of the county transit board if one is appointed pursuant 6202
to section 306.03 of the Revised Code or the county auditor if the 6203
board of county commissioners operates the county transit system. 6204

(U) "Transit authority" means a regional transit authority 6205
created pursuant to section 306.31 of the Revised Code or a county 6206
in which a county transit system is created pursuant to section 6207
306.01 of the Revised Code. For the purposes of this chapter, a 6208
transit authority must extend to at least the entire area of a 6209
single county. A transit authority that includes territory in more 6210
than one county must include all the area of the most populous 6211
county that is a part of such transit authority. County population 6212
shall be measured by the most recent census taken by the United 6213
States census bureau. 6214

(V) "Legislative authority" means, with respect to a regional 6215
transit authority, the board of trustees thereof, and with respect 6216
to a county that is a transit authority, the board of county 6217
commissioners. 6218

(W) "Territory of the transit authority" means all of the 6219
area included within the territorial boundaries of a transit 6220
authority as they from time to time exist. Such territorial 6221
boundaries must at all times include all the area of a single 6222
county or all the area of the most populous county that is a part 6223
of such transit authority. County population shall be measured by 6224
the most recent census taken by the United States census bureau. 6225

(X) "Providing a service" means providing or furnishing 6226
anything described in division (B)(3) of this section for 6227
consideration. 6228

(Y)(1)(a) "Automatic data processing" means processing of 6229
others' data, including keypunching or similar data entry services 6230

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
an available position.

(LL) "Exterminating service" means eradicating or attempting
to eradicate vermin infestations from a building or structure, or
the area surrounding a building or structure, and includes
activities to inspect, detect, or prevent vermin infestation of a
building or structure.

(MM) "Physical fitness facility service" means all
transactions by which a membership is granted, maintained, or
renewed, including initiation fees, membership dues, renewal fees,
monthly minimum fees, and other similar fees and dues, by a
physical fitness facility such as an athletic club, health spa, or
gymnasium, which entitles the member to use the facility for
physical exercise.

(NN) "Recreation and sports club service" means all
transactions by which a membership is granted, maintained, or
renewed, including initiation fees, membership dues, renewal fees,
monthly minimum fees, and other similar fees and dues, by a
recreation and sports club, which entitles the member to use the
facilities of the organization. "Recreation and sports club" means
an organization that has ownership of, or controls or leases on a
continuing, long-term basis, the facilities used by its members
and includes an aviation club, gun or shooting club, yacht club,
card club, swimming club, tennis club, golf club, country club,
riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food
or food production, and includes but is not limited to cattle,
sheep, goats, swine, and poultry. "Livestock" does not include
invertebrates, fish, amphibians, reptiles, horses, domestic pets,
animals for use in laboratories or for exhibition, or other
animals not commonly raised for food or food production.

(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.

Sec. 5741.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, business trusts, governments, and combinations of individuals of any form.

(B) "Storage" means and includes any keeping or retention in this state for use or other consumption in this state.

(C) "Use" means and includes the exercise of any right or power incidental to the ownership of the thing used. A thing is also "used" in this state if its consumer gives or otherwise distributes it, without charge, to recipients in this state.

(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 6603

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 passenger
car, noncommercial motor vehicle, recreational vehicle,
watercraft, outboard motor, or aircraft, the tax shall be
collected by the lessor at the time the sale is consummated and
calculated by the lessor on the basis of the total amount to be
paid by the lessee under the lease agreement. In the case of an
open-end lease, the tax shall be calculated by the lessor 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,
"passenger car," "noncommercial motor vehicle," and "recreational
vehicle" have the same meanings 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
8 of Article I of the Constitution of the United States, to allow
the state to require the seller to collect and remit use tax on
sales of tangible personal property or services made to consumers
in this state. "Substantial nexus with this state" exists when the
seller does any of the following:

(1) Maintains a place of business within this state, whether

operated by employees or agents of the seller, by a member of an
affiliated group, as described in division (B)(3)(e) of section
5739.01 of the Revised Code, of which the seller is a member, or
by a franchisee using a trade name of the seller;

(2) Regularly has employees, agents, representatives,
solicitors, installers, repairmen, salesmen, or other individuals
in this state for the purpose of conducting the business of the
seller;

(3) Uses a person in this state for the purpose of receiving
or processing orders of the seller's goods or services;

(4) Makes regular deliveries of tangible personal property
into this state by means other than common carrier;

(5) Has membership in an affiliated group, as described in
division (B)(3)(e) of section 5739.01 of the Revised Code, at
least one other member of which has substantial nexus with this
state;

(6) Owns tangible personal property that is rented or leased
to a consumer in this state, or offers tangible personal property,
on approval, to consumers in this state;

(7) Is registered with the secretary of state to do business
in this state or is registered or licensed by any state agency,
board, or commission to transact business in this state or to make
sales to persons in this state;

(8) Has any other contact with this state that would allow
this state to require the seller to collect and remit use tax
under Section 8 of Article I of the Constitution of the United
States.

(J) "Fiscal officer" means, with respect to a regional
transit authority, the secretary-treasurer thereof, and with
respect to a county which is a transit authority, the fiscal

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. 6690

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
election of remedies or a bar to an assessment against the other
for failure to report or pay the same tax. No assessment shall be
issued against any person if the tax actually has been paid by
another.

No assessment shall be made or issued against an employer,
taxpayer, or qualifying entity more than four years after the
final date the return subject to assessment was required to be
filed or the date the return was filed, whichever is later.
However, the commissioner may assess any balance due as the result
of a reduction in the credit allowed under division (B) of section
5747.05 of the Revised Code, including applicable penalty and
interest, within four years of the date on which the taxpayer
reports a change in either the portion of the taxpayer's adjusted
gross income subjected to an income tax or tax measured by income
in another state or the District of Columbia or the amount of
liability for an income tax or tax measured by income to another
state or the District of Columbia, as required by division (B)(3)
of section 5747.05 of the Revised Code. Such time limits may be
extended if both the employer, taxpayer, or qualifying entity and
the commissioner consent in writing to the extension or if an
agreement waiving or extending the time limits has been entered
into pursuant to section 122.171 of the Revised Code. Any such
extension shall extend the four-year time limit in division (B) of
section 5747.11 of the Revised Code for the same period of time.
There shall be no bar or limit to an assessment against an
employer for taxes withheld from employees and not remitted to the
state, against an employer, taxpayer, or qualifying entity that
fails to file a return subject to assessment as required by this
chapter, or against an employer, taxpayer, or qualifying entity
that files a fraudulent return.

The commissioner shall give the party assessed written notice

of the assessment as provided in section 5703.37 of the Revised
Code.

(B) Unless the party to whom the notice of assessment is
directed files with the commissioner within sixty days after
service of the notice of assessment, either personally or by
certified mail, a petition for reassessment in writing, signed by
the party assessed, or by the party's authorized agent having
knowledge of the facts and makes payment of the portion of the
assessment required by division (E) of this section, the
assessment shall become final, and the amount of the assessment
shall be due and payable from the party assessed to the
commissioner with remittance made payable to the treasurer of
state. The petition shall indicate the objections of the party
assessed, but additional objections may be raised in writing if
received prior to the date shown on the final determination by the
commissioner.

Unless the petitioner waives a hearing, the commissioner
shall assign a time and place for the hearing on the petition and
notify the petitioner of the time and place of the hearing by
personal service or certified mail, but the commissioner may
continue the hearing from time to time if necessary.

The commissioner may make such correction to an assessment as
the commissioner finds proper. The commissioner shall serve a copy
of a final determination on the petitioner by personal service or
certified mail, and the commissioner's decision in the matter
shall be final, subject to appeal as provided in section 5717.02
of the Revised Code. Only objections decided on the merits by the
board of tax appeals or a court shall be given collateral estoppel
or res judicata effect in considering an application for refund of
amounts paid pursuant to the assessment.

(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 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 interest, payment of the assessment, including interest but not penalty, is required;

(2) If the taxpayer or qualifying entity that is assessed failed to file, prior to the date of issuance of the assessment, the annual return or report required by section 5747.08 or 5747.42 of the Revised Code, any amended return or amended report required by section 5747.10 or 5747.45 of the Revised Code for the taxable year at issue, or any report required by division (B) of section 5747.05 of the Revised Code to indicate a reduction in the amount of the credit provided under that division, payment of the assessment, including interest but not penalty, is required, except as otherwise provided under division (E)(6) or (7) of this section;

(3) If the employer assessed had not filed, prior to the date of issuance of the assessment, the annual return required by division (E)(2) of section 5747.07 of the Revised Code covering the period at issue, payment of the assessment, including interest but not penalty, is required;

(4) If the taxpayer or qualifying entity that is assessed filed, prior to the date of issuance of the assessment, the annual return or report required by section 5747.08 or 5747.42 of the Revised Code, all amended returns or reports required by section 5747.10 or 5747.45 of the Revised Code for the taxable year at issue, and all reports required by division (B) of section 5747.05 of the Revised Code to indicate a reduction in the amount of the credit provided under that division, and a balance of the taxes shown due on the returns or reports as computed on the returns or reports remains unpaid, payment of only that portion of the assessment representing the unpaid balance of tax and interest is required;

(5) If the employer assessed filed, prior to the date of

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

If upon final determination of the petition an error in the 6879
assessment is corrected by the commissioner, upon petition so 6880
filed or pursuant to a decision of the board of tax appeals or any 6881
court to which the determination or decision has been appealed, so 6882
that the amount due from the party assessed under the corrected 6883
assessment is less than the portion paid, there shall be issued to 6884
the petitioner or to the petitioner's assigns or legal 6885

representative a refund in the amount of the overpayment as 6886
provided by section 5747.11 of the Revised Code, with interest on 6887
that amount as provided by such section, subject to section 6888
5747.12 of the Revised Code. 6889

Sec. 5747.98. (A) To provide a uniform procedure for 6890
calculating the amount of tax due under section 5747.02 of the 6891
Revised Code, a taxpayer shall claim any credits to which the 6892
taxpayer is entitled in the following order: 6893

(1) The retirement income credit under division (B) of 6894
section 5747.055 of the Revised Code; 6895

(2) The senior citizen credit under division (C) of section 6896
5747.05 of the Revised Code; 6897

(3) The lump sum distribution credit under division (D) of 6898
section 5747.05 of the Revised Code; 6899

(4) The dependent care credit under section 5747.054 of the 6900
Revised Code; 6901

(5) The lump sum retirement income credit under division (C) 6902
of section 5747.055 of the Revised Code; 6903

(6) The lump sum retirement income credit under division (D) 6904
of section 5747.055 of the Revised Code; 6905

(7) The lump sum retirement income credit under division (E) 6906
of section 5747.055 of the Revised Code; 6907

(8) The credit for displaced workers who pay for job training 6908
under section 5747.27 of the Revised Code; 6909

(9) The campaign contribution credit under section 5747.29 of 6910
the Revised Code; 6911

(10) The twenty-dollar personal exemption credit under 6912
section 5747.022 of the Revised Code; 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) <u>The job retention credit under division (B) of section 5747.058 of the Revised Code;</u>	6929 6930
<u>(19)</u> The credit for manufacturing investments under section 5747.051 of the Revised Code;	6931 6932
(19) <u>(20)</u> 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) <u>(21)</u> The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	6936 6937 6938
(21) <u>(22)</u> The job training credit under section 5747.39 of the Revised Code;	6939 6940
(22) <u>(23)</u> The enterprise zone credit under section 5709.66 of the Revised Code;	6941 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 6966
Revised Code, the amount of the credit for a taxable year shall 6967
not exceed the tax due after allowing for any other credit that 6968
precedes it in the order required under this section. Any excess 6969
amount of a particular credit may be carried forward if authorized 6970
under the section creating that credit. Nothing in this chapter 6971
shall be construed to allow a taxpayer to claim, directly or 6972

indirectly, a credit more than once for a taxable year. 6973

Section 2. That existing sections 122.15, 149.07, 166.03, 6974
183.02, 317.33, 1309.528, 2701.20, 3313.37, 3313.375, 3318.31, 6975
3353.07, 3353.11, 3770.02, 3770.03, 3770.06, 5111.34, 5111.872, 6976
5123.043, 5123.046, 5123.048, 5123.049, 5123.0411, 5126.01, 6977
5126.02, 5126.021, 5126.033, 5126.035, 5126.036, 5126.042, 6978
5126.046, 5126.05, 5126.054, 5126.055, 5126.056, 5126.06, 5126.14, 6979
5126.15, 5126.17, 5126.18, 5126.19, 5126.221, 5126.357, 5705.44, 6980
5709.12, 5709.121, 5709.17, 5709.40, 5709.411, 5709.43, 5709.73, 6981
5709.74, 5709.75, 5709.77, 5709.78, 5709.79, 5709.80, 5709.81, 6982
5733.06, 5733.0610, 5733.11, 5733.98, 5739.01, 5741.01, 5747.058, 6983
5747.13, and 5747.98 of the Revised Code are hereby repealed. 6984

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 7070
Developmental Disabilities created under section 101.37 of the 7071
Revised Code shall do both of the following in meetings open to 7072
the public: 7073

(1) Do all of the following regarding the tax equity program: 7074
7075

(a) Review documents submitted by the Ohio Department of 7076
Mental Retardation and Developmental Disabilities, Ohio 7077
Superintendents of County Boards of Mental Retardation and 7078
Developmental Disabilities, Ohio Association of County Boards of 7079
Mental Retardation and Developmental Disabilities, and other 7080
entities to the Council regarding the issue of a property tax 7081
equalization program for adults only as provided by Am. Sub. H.B. 7082
94 of the 124th General Assembly; 7083

(b) Review the concept of Medicaid comparability of care, 7084
adult services expenditures within county boards of mental 7085
retardation and developmental disabilities, the concept of tax 7086
capacity and targeting property taxes to adult services, and the 7087
necessity to reduce the disparity in capability of county boards 7088
to provide adult services; 7089

(c) Establish a reasonable methodology to provide tax 7090
equalization for adult services for county boards that are below 7091
the average on property tax yield. 7092

(2) Do both of the following regarding the collective 7093
bargaining unit of service and support administrators: 7094

(a) Review the provision of section 5126.15 of the Revised 7095

Code that prohibits individuals employed or under contract as
service and support administrators from being in the same
collective bargaining unit as employees who perform duties that
are not administrative;

(b) Determine whether the following service and support
administration functions are in conflict or incompatible with the
functions of employees who perform duties that are not
administrative:

(i) Selection of providers of day services, including
employees of county boards of mental retardation and developmental
disabilities;

(ii) Contracting with applicable providers;

(iii) Reviewing and assuring the quality of services;

(iv) Monitoring for major unusual incidents.

(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, Senate President, 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 7126
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 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 12. 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 13. 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
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036	764-321	Operating Expense -	\$	185,264,130	\$	195,245,402	7199
		Highway Patrol					

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
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831	764-610	Patrol/Federal	\$	2,210,831	\$	2,336,609	7203
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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
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838	764-606	Patrol Reimbursement	\$	216,690	\$	222,108	7206
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840	764-607	State Fair Security	\$	1,306,015	\$	1,384,660	7207
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840	764-617	Security and	\$	4,484,313	\$	4,749,103	7208
		Investigations					

840	764-626	State Fairgrounds	\$	783,175	\$	829,631	7209
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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
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
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					7230
the Revised Code.					7231
<u>PATROL REIMBURSEMENT FUND CASH TRANSFER</u>					7232
<u>On the effective date of this amendment or as soon as</u>					7233
<u>possible thereafter, the Director of Budget and Management shall</u>					7234
<u>transfer \$551,150.59 in cash from the Patrol Reimbursement Fund</u>					7235
<u>(Fund 838) to the Turnpike Policing Fund (Fund 837). This transfer</u>					7236
<u>will correct an inaccurate deposit made at the end of fiscal year</u>					7237
<u>2001."</u>					7238

Section 14. That existing Section 5.02 of Sub. H.B. 73 of the 124th General Assembly is hereby repealed.

Section 15. 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	
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GRF 195-200	Maintenance	\$	589,524	\$	601,314	
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GRF 195-300	Equipment	\$	108,161	\$	110,324	
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GRF 195-401	Thomas Edison Program	\$	20,000,000	\$	20,000,000	
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GRF 195-404	Small Business	\$	2,452,342	\$	2,529,843	
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Development

GRF 195-405	Minority Business	\$	2,278,888	\$	2,297,314	
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Development Division

GRF 195-406	Transitional and	\$	2,770,145	\$	2,770,155	
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Permanent Housing

GRF 195-407	Travel and Tourism	\$	6,345,500	\$	6,448,399	
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GRF 195-408	Coal Research	\$	562,551	\$	585,290	
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Development

GRF 195-412	Business Development	\$	8,033,935	\$	9,092,851	
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Grants

GRF 195-414	First Frontier Match	\$	490,000	\$	490,000	
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GRF 195-415	Regional Offices and	\$	6,420,675	\$	6,735,253	
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Economic Development

GRF 195-416	Governor's Office of	\$	5,466,954	\$	5,475,126	
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Appalachia

GRF 195-417	Urban/Rural Initiative	\$	980,000	\$	980,000	
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GRF 195-422	Technology Action	\$	14,000,000	\$	14,000,000	
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GRF 195-426	Clean Ohio	\$	448,000	\$	641,000	7262
	Implementation					
GRF 195-431	Community Development	\$	2,530,860	\$	2,530,860	7263
	Corporation Grants					
GRF 195-432	International Trade	\$	5,390,000	\$	5,551,700	7264
GRF 195-434	Investment in Training	\$	12,500,000	\$	12,500,000	7265
	Grants					
GRF 195-436	Labor/Management	\$	1,146,805	\$	1,152,752	7266
	Cooperation					
GRF 195-440	Emergency Shelter	\$	2,768,313	\$	2,841,441	7267
	Housing Grants					
GRF 195-441	Low and Moderate	\$	19,000,000	\$	19,000,000	7268
	Income Housing					
GRF 195-497	CDBG Operating Match					7269
	Federal	\$	5,200,00	\$	6,500,000	7270
			<u>5,200,000</u>			7271
	CDBG Operating Match	\$	6,408,56	\$	7,715,295	7272
	Total					
			<u>6,408,576</u>			7273
	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
		<u>141,741,695</u>		<u>145,822,580</u>	7285
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
3X3 195-619 TANF Housing Program	\$	5,200,000	\$	0	7298
308 195-602 Appalachian Regional	\$	350,000	\$	350,200	7299
Commission					
308 195-603 Housing and Urban	\$	5,000,000	\$	5,000,000	7300
Development					
308 195-605 Federal Projects	\$	7,855,501	\$	7,855,501	7301
308 195-609 Small Business	\$	3,799,626	\$	3,799,626	7302
Administration					
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	\$	4,507,212	\$	4,696,198	7305
Operating					
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	\$	211,900	\$	211,900	7312
Operating					
4S1 195-634 Job Creation Tax	\$	372,700	\$	375,800	7313
Credit Operating					
4W1 195-646 Minority Business	\$	2,572,960	\$	2,580,597	7314
Enterprise Loan					
444 195-607 Water and Sewer	\$	511,000	\$	523,775	7315
Commission Loans					
445 195-617 Housing Finance	\$	3,782,808	\$	3,968,184	7316
Operating					
450 195-624 Minority Business	\$	13,232	\$	13,563	7317
Bonding Program					
Administration					
451 195-625 Economic Development	\$	2,062,451	\$	2,143,918	7318
Financing Operating					
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
Establishment				7327
4Z6 195-647 Rural Industrial Park	\$	5,000,000	\$	5,000,000
Loan				7328
5D1 195-649 Port Authority Bond	\$	2,500,000	\$	2,500,000
Reserves				7329
5D2 195-650 Urban Redevelopment	\$	10,000,000	\$	10,475,000
Loans				7330
5H1 195-652 Family Farm Loan	\$	2,246,375	\$	2,246,375
Guarantee				7331
<u>5S8 195-627 Rural Development</u>	<u>\$</u>	<u>5,000,000</u>	<u>\$</u>	<u>5,000,000</u>
<u>Initiative</u>				7332
<u>5S9 195-628 Capital Access Loan</u>	<u>\$</u>	<u>3,000,000</u>	<u>\$</u>	<u>3,000,000</u>
<u>Program</u>				7333
TOTAL 037 Facilities				7334
Establishment Fund	\$	76,448,059	\$	78,340,601
		<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
Development Fund				7338
TOTAL 046 Coal Research/				7339
Development Fund	\$	12,847,178	\$	13,168,357
				7340
TOTAL ALL BUDGET FUND GROUPS	\$	678,898,230	\$	686,718,607
	\$	684,650,230		<u>694,718,607</u>
		<u>692,098,230</u>		"
				7343

Section 16. That existing Section 41 of Am. Sub. H.B. 94 of 7345
the 124th General Assembly, as amended by Am. Sub. H.B. 3 and Am. 7346
Sub. H.B. 299, both of the 124th General Assembly, is hereby 7347
repealed. 7348

Section 17. That Sections 41.15, 45, 63.25, 74.01, 74.02, 7349

94.11, 98, 104, and 140 of Am. Sub. H.B. 94 of the 124th General 7350
Assembly be amended to read as follows: 7351

"Sec. 41.15. FACILITIES ESTABLISHMENT FUND 7352

The foregoing appropriation item 195-615, Facilities 7353
Establishment (Fund 037), shall be used for the purposes of the 7354
Facilities Establishment Fund under Chapter 166. of the Revised 7355
Code. 7356

Notwithstanding Chapter 166. of the Revised Code, up to 7357
\$1,600,000 may be transferred each fiscal year from the Facilities 7358
Establishment Fund (Fund 037) to the Economic Development 7359
Financing Operating Fund (Fund 451). The transfer is subject to 7360
Controlling Board approval pursuant to division (B) of section 7361
166.03 of the Revised Code. 7362

Notwithstanding Chapter 166. of the Revised Code, up to 7363
\$3,800,000 may be transferred in each fiscal year of the biennium 7364
from the Facilities Establishment Fund (Fund 037) to the Minority 7365
Business Enterprise Loan Fund (Fund 4W1). The transfer is subject 7366
to Controlling Board approval pursuant to division (B) of section 7367
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 7399
to Controlling Board approval. 7400

Financial assistance from the Family Farm Loan Fund (Fund 7401
5H1) shall be repaid to Fund 5H1. This fund is established in 7402
accordance with sections 166.031, 901.80, 901.81, 901.82, and 7403
901.83 of the Revised Code. 7404

When the Family Farm Loan Fund (Fund 5H1) ceases to exist, 7405
all outstanding balances, all loan repayments, and any other 7406
outstanding obligations shall revert to the Facilities 7407
Establishment Fund (Fund 037). 7408

RURAL DEVELOPMENT INITIATIVE FUND 7409

(A)(1) There is hereby created in the state treasury the 7410

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
guidelines for the transfer and release of funds. The release of
grant moneys to an eligible applicant is subject to Controlling
Board approval.

(B) Notwithstanding Chapter 166. of the Revised Code, the
Director of Budget and Management may transfer up to \$5,000,000
per fiscal year in cash on an as needed basis at the request of
the Director of Development from the Facilities Establishment Fund
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8).
The transfer is subject to Controlling Board approval pursuant to
section 166.03 of the Revised Code.

CAPITAL ACCESS LOAN PROGRAM

The foregoing appropriation item 195-628, Capital Access Loan

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

7448

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
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
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Operating Subsidy

TOTAL GRF General Revenue Fund	\$	8,430,840	\$	8,849,558	7465
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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 <u>transferred to</u> 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

TOTAL GRF General Revenue Fund \$ 357,427,862 \$ 353,696,490 7515

360,427,862 373,696,490 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 Expansion	\$	2,000,000	\$	2,000,000	7525
324	334-605	Medicaid/Medicare	\$	8,791,748	\$	9,043,700	7526
5L2	334-619	Health Foundation/Greater Cincinnati	\$	131,600	\$	94,869	7527
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 Operating	\$	1,991,448	\$	1,989,912	7531
692	334-636	Community Mental Health Board Risk Fund	\$	361,323	\$	370,356	7532
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
<u>Of the foregoing appropriation item 334-408, Community and</u>							7538
<u>Hospital Mental Health Services, the appropriation increases made</u>							7539
<u>by the amendment in H.B. 405 of the 124th General Assembly shall</u>							7540
<u>be used by the state mental hospitals for operating purposes.</u>							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 7588
the Governor's Science Advisor, the Director of Budget and 7589
Management, the Chancellor of the Board of Regents, the Director 7590
of Development, three members of the House of Representatives 7591
appointed by the Speaker, of whom no more than two shall be of the 7592
same political party, and three members of the Senate appointed by 7593
the President, of whom no more than two shall be of the same 7594
political party. Administrative support for the Study Committee 7595
shall be provided by the Board of Regents. The Study Committee 7596
shall report its recommendations to the Governor and the General 7597
Assembly no later than ~~December 31, 2001~~ March 15, 2002. After it 7598
submits its report, the Study Committee shall cease to exist. The 7599
Ohio Plan for Technology and Development is intended to promote 7600
collaborative efforts among state government, higher education, 7601
and business and industry that will lead to the development of New 7602

Economy applications of science and technology and, ultimately, 7603
new business start-ups in the state and increased economic 7604
prosperity for the citizens of Ohio. 7605

APPALACHIAN NEW ECONOMY PARTNERSHIP 7606

The foregoing appropriation item 235-428, Appalachian New 7607
Economy Partnership, shall be distributed to Ohio University to 7608
begin a multi-campus and multi-agency coordinated effort to link 7609
Appalachia to the new economy. Ohio University shall use these 7610
funds to provide leadership in the development and implementation 7611
of initiatives in the areas of entrepreneurship, management, 7612
education, and technology. 7613

Sec. 98. REVENUE DISTRIBUTION FUNDS 7614

Volunteer Firefighters' Dependents Fund 7615

085 800-900 Volunteer \$ 200,000 \$ 200,000 7616

Firefighters'

Dependents Fund

TOTAL 085 Volunteer Firefighters' 7617

Dependents Fund \$ 200,000 \$ 200,000 7618

Agency Fund Group 7619

062 110-900 Resort Area Excise Tax \$ 500,000 \$ 500,000 7620

063 110-900 Permissive Tax \$ 1,398,200,000 \$ 1,447,100,000 7621

Distribution

067 110-900 School District Income \$ 156,800,000 \$ 166,200,000 7622

Tax Fund

4P8 001-698 Cash Management \$ 2,000,000 \$ 2,000,000 7623

Improvement Fund

608 001-699 Investment Earnings \$ 406,700,000 \$ 398,300,000 7624

TOTAL AGY Agency Fund Group \$ 1,964,200,000 \$ 2,014,100,000 7625

Holding Account Redistribution 7626

R45 110-617 International Fuel Tax \$ 40,000,000 \$ 41,000,000 7627

Distribution

TOTAL	R45	Holding	Account	\$	40,000,000	\$	41,000,000	7628
Redistribution Fund								
Revenue Distribution Fund Group								7629
049	038-900	Indigent Drivers		\$	2,100,000	\$	2,300,000	7630
		Alcohol Treatment						
050	762-900	International		\$	58,000,000	\$	65,000,000	7631
		Registration Plan						
		Distribution						
051	762-901	Auto Registration		\$	490,000,000	\$	515,000,000	7632
		Distribution						
054	110-900	Local Government		\$	43,700,000	\$	88,800,000	7633
		Property Tax						
		Replacement						
060	110-900	Gasoline Excise Tax		\$	116,027,000	\$	118,348,000	7634
		Fund						
064	110-900	Local Government		\$	100,600,000	\$	100,900,000	7635
		Revenue Assistance			<u>94,564,000</u>		<u>94,846,000</u>	
065	110-900	Library/Local		\$	506,700,000	\$	508,100,000	7636
		Government Support			<u>476,298,000</u>		<u>477,614,000</u>	
		Fund						
066	800-900	Undivided Liquor		\$	13,500,000	\$	13,750,000	7637
		Permit Fund						
068	110-900	State/Local Government		\$	233,750,000	\$	238,893,000	7638
		Highway Distribution						
		Fund						
069	110-900	Local Government Fund		\$	718,700,000	\$	720,400,000	7639
					<u>675,578,000</u>		<u>677,176,000</u>	
082	110-900	Horse Racing Tax		\$	200,000	\$	200,000	7640
083	700-900	Ohio Fairs Fund		\$	3,000,000	\$	3,000,000	7641
TOTAL RDF Revenue Distribution								7642
Fund Group								
				\$	2,286,277,000	\$	2,374,691,000	7643
					<u>2,206,717,000</u>		<u>2,294,927,000</u>	
TOTAL ALL BUDGET FUND GROUPS				\$	4,290,677,000	\$	4,429,991,000	7644

4,211,117,000 4,350,227,000

ADDITIONAL APPROPRIATIONS 7645

Appropriation items in this section are to be used for the 7646
purpose of administering and distributing the designated revenue 7647
distributions fund according to the Revised Code. If it is 7648
determined that additional appropriations are necessary, such 7649
amounts are appropriated. 7650

Sec. 104. SOS SECRETARY OF STATE 7651

General Revenue Fund 7652

GRF 050-321 Operating Expenses \$ 3,300,000 \$ 3,300,000 7653

GRF 050-403 Election Statistics \$ 146,963 \$ 154,882 7654

GRF 050-407 Pollworkers Training \$ 231,400 \$ 327,600 7655

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

12,100,000 12,208,000 7667

TOTAL SSR State Special Revenue 7668

Fund Group \$ ~~12,000,000~~ \$ ~~12,100,000~~ 7669

12,220,000 12,329,000 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 7682
Board of Voting Machine Examiners Fund, which is created in 7683
section 3506.05 of the Revised Code. Moneys not used shall be 7684
returned to the person or entity submitting the equipment for 7685
examination. If it is determined that additional appropriations 7686
are necessary, such amounts are appropriated. 7687

HOLDING ACCOUNT REDISTRIBUTION GROUP 7688

The foregoing appropriation items 050-605 and 050-606, 7689
Holding Account Redistribution Fund Group, shall be used to hold 7690
revenues until they are directed to the appropriate accounts or 7691
until they are refunded. If it is determined that additional 7692
appropriations are necessary, such amounts are appropriated. 7693

Sec. 140. TEMPORARY STABILIZATION OF LOCAL GOVERNMENT 7694
DISTRIBUTIONS 7695

(A) On or before the third day of each month of the period 7696
July 2001 through May 2002, the Tax Commissioner shall determine 7697
the amounts credited under sections 5727.45, 5733.12, 5739.21, 7698

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.

Notwithstanding sections 5727.45, 5733.12, 5739.21, 5741.03,
and 5747.03 of the Revised Code to the contrary, for each month in
the period July 1, 2001, through June 30, 2003, from the public
utility excise, corporate franchise, sales, use, and personal
income taxes collected:

(1) An amount shall first be credited to the Local Government
Fund that equals the amount credited to that fund from that tax
according to the schedule in division (B) of this section.

(2) An amount shall next be credited to the Local Government
Revenue Assistance Fund that equals the amount credited to that
fund from that tax according to the schedule in division (B) of
this section.

(3) An amount shall next be credited to the Library and Local
Government Support Fund that equals the amount credited to that
fund from that tax according to the schedule in division (B) of
this section.

(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) The amounts otherwise required by this section to be 7770
credited to the Local Government Fund, the Local Government 7771
Revenue Assistance Fund, and the Library and Local Government 7772
Support Fund for fiscal year 2002 and 2003 shall be reduced by six 7773
per cent for each such year, consistent with the reduction made by 7774
this act to the appropriations contained in Section 98 of Am. Sub. 7775
H.B. 94 of the 124th General Assembly. Distributions to each 7776
county undivided local government fund, municipality, county 7777
undivided local government revenue assistance fund, and county 7778
library and local government support fund shall be reduced 7779
accordingly. 7780

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
Government Revenue Assistance Fund, or the Library and Local
Government Support Fund, as appropriate, and shall be deducted
from the General Revenue Fund. If an adjustment is a negative
amount, during July 2001, such amount shall be deducted from the
Local Government Fund, the Local Government Revenue Assistance
Fund, or the Library and Local Government Support Fund, as
appropriate, and shall be credited to the General Revenue Fund.
Any amount remaining in the Local Government Fund, the Local
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 7823
July 2001 and minus its pro rata share of any amount transferred 7824
from that fund to the OPLIN Technology Fund in July 2001 or August 7825
2001. In August 2001, each county undivided local government fund 7826
shall receive from the Local Government Fund, each municipality 7827
that receives a distribution directly from the Local Government 7828
Fund shall receive from that fund, and each county undivided local 7829
government revenue assistance fund shall receive from the Local 7830
Government Revenue Assistance Fund an amount equal to the amount 7831
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 7864
amounts are distributed to the Local Government Fund, to the Local 7865
Government Revenue Assistance Fund, and to the Library and Local 7866
Government Support Fund to accomplish the purposes of this 7867
section." 7868

Section 18. That existing Sections 41.15, 45, 63.25, 74.01, 7869
74.02, 94.11, 98, 104, and 140 of Am. Sub. H.B. 94 of the 124th 7870
General Assembly are hereby repealed. 7871

Section 19. That Sections 41.10 and 63.09 of Am. Sub. H.B. 94 7872
of the 124th General Assembly, as amended by Am. Sub. H.B. 299 of 7873
the 124th General Assembly, be amended to read as follows: 7874

"Sec. 41.10. EMERGENCY SHELTER HOUSING GRANTS 7875

(A) As used in this section, "emergency shelter housing" 7876
means a structure suitable for the temporary housing of the 7877
homeless and the provision of, or referral to, supportive 7878
services. Shelters that restrict admission to victims of domestic 7879
violence, runaways, or alcohol or substance abusers shall not be 7880
considered emergency shelter housing. 7881

(B) The foregoing appropriation item 195-440, Emergency 7882
Shelter Housing Grants, shall be used by the Office of Housing and 7883
Community Partnerships in the Department of Development to make 7884

grants to private, nonprofit organizations to provide emergency 7885
shelter housing for the homeless. The department shall distribute 7886
the grants pursuant to rules adopted by the Director of 7887
Development. The director may amend or rescind the rules and may 7888
adopt other rules necessary to implement this section. In awarding 7889
grants, the department shall give preference to organizations 7890
applying to fund existing emergency shelter housing. 7891

The department shall notify each organization that applied 7892
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
TANF-eligible individuals. Organizations receiving these funds
shall comply with all TANF requirements, and shall agree with the
Department of Job and Family Services on reporting requirements to
be incorporated into the grant agreement.

TANF EDUCATION

There is hereby established the Title IV-A Education Program
to be administered by the Department of Education in accordance
with an interagency agreement entered into with the Department of
Job and Family Services under division (A)(2) of section 5101.801
of the Revised Code. The program shall provide benefits and
services to TANF eligible individuals with incomes at or below 200
per cent of the federal poverty guidelines under a Title IV-A
program pursuant to the requirements of section 5101.801 of the
Revised Code. Upon approval by the Department of Job and Family
Services, the Department of Education shall adopt policies and
procedures establishing program requirements for eligibility,
services, fiscal accountability, and other criteria necessary to
comply with the provisions of Title IV-A of the "Social Security
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

The Department of Job and Family Services shall reimburse the
General Revenue Fund through intrastate transfer vouchers for
allowable Title IV-A Head Start expenditures reported by the
Department of Education in fiscal year 2002 by amounts up to
\$76,156,175 from Fund 3V6, TANF Block Grant, and in fiscal year
2003, up to \$98,843,825 from Fund 3V6, TANF Block Grant. The
Department of Job and Family Services shall reimburse the General
Revenue Fund through intrastate transfer vouchers for allowable
Title IV-A student intervention services expenditures in fiscal
year 2003 up to \$35,000,000 from Fund 3V6, TANF Block Grant.

COUNTY DEPARTMENTS OF JOB AND FAMILY SERVICES TITLE IV-A
ADULT LITERACY AND CHILD READING PROGRAMS

There is hereby established the Title IV-A Adult Literacy and Child Reading Program to be administered by the county departments of job and family services in accordance with division (B)(1) of section 5101.801 of the Revised Code. The program shall provide benefits and services to TANF-eligible individuals with incomes at or below 200 per cent of the federal poverty guidelines under a Title IV-A program pursuant to the requirements of section 5101.801 of the Revised Code. The county departments of job and family services shall ensure program requirements for eligibility, services, fiscal accountability, and other criteria necessary to comply with the provisions of Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended, and ensure that benefits and services are allowable uses of federal Title IV-A funds as specified in 42 U.S.C.A. 604(a), except that they may not be "assistance" as defined in 45 C.F.R. 260.31(a). The benefits and services shall be benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of "assistance." From the foregoing appropriation item 600-689, TANF Block Grant, up to \$5,000,000 in each fiscal year shall be used to support local adult literacy and child reading programs.

TALBERT HOUSE

In each fiscal year, the Director of Job and Family Services shall provide \$100,500 from appropriation item 600-689, TANF Block Grant, to the Hamilton County Department of Job and Family Services to contract with the Talbert House for the purpose of providing allowable services to TANF-eligible individuals with incomes at or below 200 per cent of the federal poverty guidelines. The contract between the Hamilton County Department of Job and Family Services and the Talbert House shall establish conditions for the reimbursement of allowable Title IV-A expenditures for services that are allowable uses of federal Title IV-A funds as specified in 42 U.S.C.A. 604(a), except that they

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 8114
state plan. 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~~ 8128
~~TRAINING~~ 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
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
awarded, and any other guidelines necessary for the administration
of the program. The Department of Job and Family Services shall
provide technical assistance and advice to the Governor's Office
of Appalachia to facilitate the administration of the funds. The
Governor's Office of Appalachia shall develop guidelines for the
reallocation of unawarded funds.

Also as a condition on the use of these funds, each county
~~and contract agency~~ shall acknowledge that these funds are a
one-time allocation, not intended to fund services beyond
~~September~~ June 30, ~~2002~~ 2003.

In fiscal year 2002, the TANF allocation to each of the
Appalachian counties shall not be less than the TANF allocation
amount for fiscal year 2001, as allocated according to the
methodology set forth in paragraph (I) of rule 5101-6-03 of the
Administrative Code.

The use of these funds shall comply with all TANF
requirements, including reporting requirements and timelines, as
specified in state and federal laws, federal regulations, state
rules, and the Title IV-A state plan.

CENTER FOR FAMILY AND CHILDREN

Of the foregoing appropriation item 600-689, TANF Block
Grant, \$150,000 in fiscal year 2002 shall be provided to the
Center for Family and Children.

TANF FAMILY PLANNING

The Director of Budget and Management shall transfer by
intrastate voucher, no later than the fifteenth day of July of
each fiscal year, cash from the General Revenue Fund,
appropriation item 600-410, TANF State, to General Services Fund
5C1 in the Department of Health, in an amount of \$250,000 in each
fiscal year for the purpose of family planning services for

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
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 8217
Services, the Director of Budget and Management may seek 8218
Controlling Board approval to increase appropriations in 8219
appropriation item 600-689, TANF Block Grant, provided sufficient 8220
Federal TANF Block Grant funds exist to do so, without any 8221
corresponding decrease in other appropriation items. The 8222
Department of Job and Family Services shall provide the Office of 8223
Budget and Management and the Controlling Board with documentation 8224
to support the need for the increased appropriation. 8225

All transfers of moneys from or charges against TANF Federal 8226
Block Grant awards for use in the Social Services Block Grant or 8227
the Child Care and Development Block Grant from either unobligated 8228
prior year appropriation authority in appropriation item 400-411, 8229
TANF Federal Block Grant, or 600-411, TANF Federal Block Grant, or 8230
from fiscal year 2002 and fiscal year 2003 appropriation authority 8231

in item 600-689, TANF Block Grant, shall be done ten days after 8232
the Department of Job and Family Services gives written notice to 8233
the Office of Budget and Management. The Department of Job and 8234
Family Services shall first provide the Office of Budget and 8235
Management with documentation to support the need for such 8236
transfers or charges for use in the Social Services Block Grant or 8237
in the Child Care and Development Block Grant. 8238

The Department of Job and Family Services shall in each 8239
fiscal year of the biennium transfer the maximum amount of funds 8240
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 20. 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 21. 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. 8337
192 of the 123rd General Assembly shall remain in full force and 8338
effect commencing on July 1, 2000, and terminating on June 30, 8339
2002, for the purpose of drawing money from the state treasury in 8340
payment of liabilities lawfully incurred thereunder, and on June 8341
30, 2002, and not before, the moneys appropriated thereby shall 8342
lapse into the funds from which they are severally appropriated. 8343

The appropriations made in ~~Sections~~ Section 8 and 9 of ~~this~~ 8344
~~act~~ Am. Sub. S.B. 192 of the 123rd General Assembly are subject to 8345
all provisions of the capital appropriations bill governing the 8346
2000-2002 biennium that are generally applicable to such 8347
appropriations. Expenditures from appropriations contained in 8348
~~Sections~~ Section 8 and 9 shall be accounted for as though made in 8349
the capital appropriations bill governing the 2000-2002 biennium." 8350

Section 22. That existing Section 10 of Am. Sub. S.B. 192 of 8351
the 123rd General Assembly is hereby repealed. 8352

Section 23. That Section 9 of Am. Sub. S.B. 192 of the 123rd 8353
General Assembly, as amended by Am. Sub. H.B. 94 of the 124th 8354
General Assembly, be amended to read as follows: 8355

~~"Sec. 9. All items set forth in this section are hereby~~ 8356
~~appropriated out of any moneys in the state treasury to the credit~~ 8357
~~of the Law Enforcement Improvements Trust Fund (Fund J87) that are~~ 8358
~~not otherwise appropriated.~~ 8359

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 24. 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 25. On the first Friday and Saturday following the 8381
effective date of this section, no tax on retail sales imposed or 8382
authorized by Chapter 5739. of the Revised Code or on use, 8383
storage, or consumption imposed or authorized by Chapter 5741. of 8384
the Revised Code shall apply to sales of any item of clothing or 8385
footwear designed to be worn on or about the human body the price 8386
of which, excluding the tax, does not exceed two hundred dollars. 8387

The Tax Commissioner, in accordance with section 5703.14 of 8388
the Revised Code, shall adopt rules necessary to implement the 8389
exemption authorized by this section, and shall make available to 8390
vendors informational bulletins explaining the exemption. 8391

This section, and the items of law of which it is composed, 8392
are subject to the referendum. Therefore, under Ohio Constitution, 8393
Article II, Section 1c and section 1.471 of the Revised Code, this 8394
section, and the items of law of which it is composed, take effect 8395
on the ninety-first day after this act is filed with the Secretary 8396
of State. If, however, a referendum petition is filed against this 8397
section, or against any item of law of which this section is 8398
composed, this section, or item of law, unless rejected at the 8399
referendum, takes effect at the earliest time permitted by law. 8400

Section 26. BUDGET STABILIZATION FUND TRANSFERS 8402

Notwithstanding section 131.43 and division (D) of section 8403
127.14 of the Revised Code, the Director of Budget and Management 8404
may, with Controlling Board approval, transfer up to \$136 million 8405
in fiscal year 2002 and up to \$47.1 million in fiscal year 2003 8406

from the Budget Stabilization Fund to the General Revenue Fund 8407
during fiscal year 2002 and fiscal year 2003 to help ensure that 8408
the available revenue receipts and balances in the General Revenue 8409
Fund are not less than the appropriations for each fiscal year. 8410

Notwithstanding section 131.43 and division (D) of section 8411
127.14 of the Revised Code, the Director of Budget and Management 8412
shall transfer, not later than 30 days after the effective date of 8413
this section, \$8.0 million from the Budget Stabilization Fund to 8414
the General Revenue Fund. These funds shall be used for emergency 8415
purposes, to include, but not be limited to, the Department of 8416
Health for anthrax and bioterrorism testing, the Adjutant General 8417
for costs associated with the deployment of troops, armory 8418
maintenance, equipment costs and capital needs, the Department of 8419
Public Safety, and other emergency purpose expenses. These amounts 8420
are hereby appropriated for General Revenue Fund appropriation 8421
line items established by the Director of Budget and Management. 8422
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 27. TRANSFER FROM THE TOBACCO MASTER SETTLEMENT 8432
AGREEMENT FUND TO THE GENERAL REVENUE FUND 8433

Notwithstanding section 183.02 of the Revised Code, on or 8434
before June 30, 2002, the Director of Budget and Management may 8435
transfer, with the exception of the shares transferred by the 8436
Director of Budget and Management to the Education Facilities 8437

Trust Fund (Fund N87), the Education Facilities Endowment Fund 8438
(Fund P87), and the Education Technology Trust Fund (Fund S87), 8439
pursuant to section 183.02 of the Revised Code, the balance of the 8440
Tobacco Master Settlement Agreement Fund (Fund 087) to the General 8441
Revenue Fund. 8442

Notwithstanding section 183.02 of the Revised Code, on or 8443
before June 30, 2003, the Director of Budget and Management may 8444
transfer, with the exception of the shares transferred by the 8445
Director of Budget and Management to the Education Facilities 8446
Trust Fund (Fund N87), the Education Facilities Endowment Fund 8447
(Fund P87), and the Education Technology Trust Fund (Fund S87), 8448
pursuant to section 183.02 of the Revised Code, the balance of the 8449
Tobacco Master Settlement Agreement Fund (Fund 087) to the General 8450
Revenue Fund. 8451

Section 28. APPROPRIATION REDUCTIONS 8452

(A) In addition to the appropriation reductions made by 8453
Executive Order 2001-22T, the General Revenue Fund appropriations 8454
contained in Am. Sub. H.B. 94 of the 124th General Assembly are 8455
hereby reduced by an additional two per cent for fiscal year 2002, 8456
with the following exceptions: 8457

(1) Appropriations made to the following agencies are reduced 8458
by eight per cent: the Ohio House of Representatives; the Ohio 8459
Senate; the Joint Committee on Agency Rule Review; and the Joint 8460
Legislative Ethics Committee. 8461

(2) Appropriations made to the following agencies are reduced 8462
by the amount indicated: Department of Job and Family Services - 8463
\$5,139,711; Department of Aging - \$1,856,989; Attorney General - 8464
\$1,245,711; Department of Public Safety - \$68,257; Treasurer of 8465
State - \$227,879; Department of Administrative Services - 8466
\$705,469; Arts and Sports Facilities Commission - \$1,970; 8467
Department of Transportation - \$724,445; Department of Development 8468

- \$2,513,129; Environmental Protection Agency - \$427,737; 8469
Department of Natural Resources - \$1,738,749; Department of Health 8470
- \$1,785,999. 8471

(3) Appropriations made to the following agencies are reduced 8472
by four per cent: Court of Claims; Judicial Conference of Ohio; 8473
Judiciary/Supreme Court. 8474

(B) The General Revenue Fund appropriations for fiscal year 8475
2003 contained in Am. Sub. H.B. 94 of the 124th General Assembly 8476
are hereby reduced by the dollar amount of the fiscal year 2002 8477
appropriation reduction contained in Executive Order 2001-22T plus 8478
an additional two per cent, with the following exceptions: 8479

(1) Appropriations made to the following agencies are reduced 8480
by eight per cent: Ohio House of Representatives; Ohio Senate; 8481
Joint Committee on Agency Rule Review; Joint Legislative Ethics 8482
Commission. 8483

(2) Appropriations made to the following agencies are reduced 8484
by the dollar amount of the fiscal year 2002 appropriation 8485
reduction contained in Executive Order 2001-22T plus the following 8486
amount: Department of Job and Family Services - \$5,139,711; 8487
Department of Aging - \$1,856,989; Attorney General - \$1,245,711; 8488
Department of Public Safety - \$68,257; Treasurer of State - 8489
\$227,879; Department of Administrative Services - \$705,469; Arts 8490
and Sports Facilities Commission - \$1,970; Department of 8491
Transportation - \$724,445; Department of Development - \$2,513,129; 8492
Environmental Protection Agency - \$427,737; Department of Natural 8493
Resources - \$1,738,749; Department of Health - \$1,785,999. 8494

(3) Appropriations made to the following agencies are reduced 8495
by four per cent: Court of Claims; Judicial Conference of Ohio; 8496
Judiciary/Supreme Court. 8497

(C) Appropriations made to the following agencies are exempt 8498
from the reductions made in this section: Department of Education, 8499

School Facilities Commission, SchoolNet Commission, Ohio School
for the Blind, Ohio School for the Deaf, Board of Regents,
Department of Mental Health, Department of Mental Retardation and
Developmental Disabilities, Veterans' Organizations, Adjutant
General, Legislative Service Commission, Department of Youth
Services, Rehabilitation Services Commission, Department of
Rehabilitation and Correction, Ohio Veterans' Home, and Public
Works Commission.

(D) If Executive Order 2001-22T is rescinded, the
appropriation reductions contained in Executive Order 2001-22T
shall still be made in fiscal year 2002.

Within thirty days of the effective date of this act, the
Director of Budget and Management, in collaboration with the
Superintendent of Public Instruction, shall reduce the General
Revenue Fund appropriations for the Department of Education
contained in Am. Sub. H.B. 94 of the 124th General Assembly by \$23
million over fiscal year 2002 and fiscal year 2003. The following
appropriation items are exempted from reductions: 200-406, Head
Start; 200-416, Vocational Education Match; 200-427, Academic
Standards; 200-500, School Finance Equity; 200-501, Base Cost
Funding; 200-502, Pupil Transportation; 200-509, Adult Literacy
Education; 200-511, Auxiliary Services; 200-520, Disadvantaged
Pupil Impact Aid; 200-521, Gifted Pupil Program; 200-525, Parity
Aid; 200-532, Nonpublic Administrative Cost Reimbursement;
200-540, Special Education Enhancements; 200-546, Charge-off
Supplement; 200-553, County MR/DD Boards Transportation Operating;
200-901, Property Tax Allocation - Education; 200-906, Tangible
Tax Exemption - Education.

In each year of the 2001-2003 biennium if the Superintendent
of Public Instruction determines that additional funds are needed
to fully fund the requirements of Am. Sub. S.B. 1 of the 124th
General Assembly for assessments of student performance, the

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 29. 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 30. 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 31. (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 8581
difference is a negative number, the amount of the subsidy shall 8582
be zero. If the school enrolls in either fiscal year fewer SBH 8583
students that it did in fiscal year 2001, any subsidy paid under 8584
this section shall be proportionately reduced. 8585

(D) The amount of any subsidy paid to a community school 8586
under this section shall not be deducted from any moneys 8587
calculated under Chapter 3317. of the Revised Code for payment to 8588
a school district in which any of its students are entitled to 8589
attend school under section 3313.64 or 3313.65 of the Revised 8590
Code. 8591

Section 32. This act's amendments to sections 5739.01 and 8592
5741.01 of the Revised Code apply only to leases entered into on 8593
or after the effective date of those sections as amended by this 8594
act. The amendments do not apply to the extension of a lease 8595
entered into before the effective date of those sections as 8596
amended by this act; the tax shall be calculated and collected by 8597
the lessor on each payment made by the lessee under such an 8598
extension. 8599

Section 33. (A) Section 1309.401 (1309.528) of the Revised 8600
Code is presented in this act as a composite of the section as 8601
amended by Am. Sub. H.B. 94 and as amended and renumbered by Am. 8602
Sub. S.B. 74, both of the 124th General Assembly. The General 8603
Assembly, applying the principle stated in division (B) of section 8604
1.52 of 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 8611
General Assembly. The General Assembly, applying the principle 8612
stated in division (B) of section 1.52 of the Revised Code that 8613
amendments are to be harmonized if reasonably capable of 8614
simultaneous operation, finds that the composite is the resulting 8615
version of the section in effect prior to the effective date of 8616
the section as presented in this act. 8617

Section 34. Except as otherwise specifically provided in this 8618
act, the codified and uncoded sections of law amended or 8619
enacted by this act, and the items of law of which such sections 8620
are composed, are not subject to the referendum. Therefore, under 8621

Ohio Constitution, Article II, Section 1d and section 1.471 of the 8622
Revised Code, the sections as amended or enacted by this act, and 8623
the items of law of which such sections are composed, are entitled 8624
to go into immediate effect when this act becomes law. 8625

Section 35. Sections 317.33, 2701.20, 3313.37, 3313.375, 8626
3770.02, 3770.03, 3770.06, 5111.34, 5739.01, and 5741.01 of the 8627
Revised Code as amended by this act, and the items of law of which 8628
such sections as amended by this act are composed, are subject to 8629
the referendum. Therefore, under Ohio Constitution, Article II, 8630
Section 1c and section 1.471 of the Revised Code, such sections as 8631
amended by this act, and the items of law of which such sections 8632
as amended by this act are composed, take effect on the 8633
ninety-first day after this act is filed with the Secretary of 8634
State. If, however, a referendum petition is filed against any 8635
such section as amended by this act, or against any item of law of 8636
which any such section as amended by this act is composed, the 8637
section as amended by this act, or item of law, unless rejected at 8638
the referendum, takes effect at the earliest time permitted by 8639
law. 8640