

Substitute Version as Presented to the Senate Finance and Financial Institutions

Code that establish a process under which a nursing facility or 35068
intermediate care facility for the mentally retarded, or a group 35069
or association of facilities, may seek reconsideration of rates 35070
established under sections 5111.23 to 5111.28 of the Revised Code, 35071
including a rate for direct care costs recalculated before the 35072
effective date of the rate as a result of an exception review of 35073
resident assessment information conducted under section 5111.27 of 35074
the Revised Code. 35075

(1) Except as provided in divisions (A)(2) to (4) of this 35076
section, the only issue that a facility, group, or association may 35077
raise in the rate reconsideration shall be whether the rate was 35078
calculated in accordance with sections 5111.23 to 5111.28 of the 35079
Revised Code and the rules adopted under those sections. The rules 35080
shall permit a facility, group, or association to submit written 35081
arguments or other materials that support its position. The rules 35082
shall specify time frames within which the facility, group, or 35083
association and the department must act. If the department 35084
determines, as a result of the rate reconsideration, that the rate 35085
established for one or more facilities is less than the rate to 35086
which it is entitled, the department shall increase the rate. If 35087
the department has paid the incorrect rate for a period of time, 35088
the department shall pay the facility the difference between the 35089
amount it was paid for that period and the amount it should have 35090
been paid. 35091

(2) The rules shall provide that during a fiscal year, the 35092
department, by means of the rate reconsideration process, may 35093
increase a facility's rate as calculated under sections 5111.23 to 35094
5111.28 of the Revised Code if the facility demonstrates that its 35095
actual, allowable costs have increased because of extreme 35096
circumstances. A facility may qualify for a rate increase only if 35097
its per diem, actual, allowable costs have increased to a level 35098
that exceeds its total rate, including any efficiency incentive 35099

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and return on equity payment. The rules shall specify the
circumstances that would justify a rate increase under division
(A)(2) of this section. The In the case of nursing facilities, the
rules shall provide that the extreme circumstances include
increased security costs for an inner-city nursing facility and an
increase in workers' compensation experience rating but do not
include a change of ownership that results from bankruptcy,
foreclosure, or findings of violations of certification
requirements by the department of health. In the case of
intermediate care facilities for the mentally retarded, the rules
shall provide that the extreme circumstances include, but are not
limited to, renovations approved under division (D) of section
5111.251 of the Revised Code, an increase in workers' compensation
experience rating of greater than five per cent for a facility
that has an appropriate claims management program, increased
security costs for an inner-city facility, and a change of
ownership that results from bankruptcy, foreclosure, or findings
of violations of certification requirements by the department of
health. An increase under division (A)(2) of this section is
subject to any rate limitations or maximum rates established by
sections 5111.23 to 5111.28 of the Revised Code for specific cost
centers. Any rate increase granted under division (A)(2) of this
section shall take effect on the first day of the first month
after the department receives the request.

(3) The rules shall provide that the department, through the
rate reconsideration process, may increase a facility's rate as
calculated under sections 5111.23 to 5111.28 of the Revised Code
if the department, in its sole discretion, determines that the
rate as calculated under those sections works an extreme hardship
on the facility.

(4) The rules shall provide that when beds certified for the
medical assistance program are added to an existing facility,

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replaced at the same site, or subject to a change of ownership or
lease, the department, through the rate reconsideration process,
shall increase the facility's rate for capital costs
proportionately, as limited by any applicable limitation under
section 5111.25 or 5111.251 of the Revised Code, to account for
the costs of the beds that are added, replaced, or subject to a
change of ownership or lease. The department shall make this
increase one month after the first day of the month after the
department receives sufficient documentation of the costs. Any
rate increase granted under division (A)(4) of this section after
June 30, 1993, shall remain in effect until the effective date of
a rate calculated under section 5111.25 or 5111.251 of the Revised
Code that includes costs incurred for a full calendar year for the
bed addition, bed replacement, or change of ownership or lease.
The facility shall report double accumulated depreciation in an
amount equal to the depreciation included in the rate adjustment
on its cost report for the first year of operation. During the
term of any loan used to finance a project for which a rate
adjustment is granted under division (A)(4) of this section, if
the facility is operated by the same provider, the facility shall
subtract from the interest costs it reports on its cost report an
amount equal to the difference between the following:

(a) The actual, allowable interest costs for the loan during
the calendar year for which the costs are being reported;

(b) The actual, allowable interest costs attributable to the
loan that were used to calculate the rates paid to the facility
during the same calendar year.

(5) The department's decision at the conclusion of the
reconsideration process shall not be subject to any administrative
proceedings under Chapter 119. or any other provision of the
Revised Code.

(B) Any audit disallowance that the department makes as the

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result of an audit under section 5111.27 of the Revised Code, any
adverse finding that results from an exception review of resident
assessment information conducted under that section after the
effective date of the facility's rate that is based on the
assessment information, and any penalty the department imposes
under division (C) of section 5111.28 of the Revised Code shall be
subject to an adjudication conducted in accordance with Chapter
119. of the Revised Code.

Sec. 5111.63. (A) As used in this section and in section
5111.64 of the Revised Code:

(1) "Facility" means a facility, or part of a facility,
certified as a nursing facility or skilled nursing facility under
Title XVIII or Title XIX of the "Social Security Act," 49 Stat.
286 (1965), 42 U.S.C. 1395 and 1396, as amended. "Facility" does
not include an intermediate care facility for the mentally
retarded, as defined in section 5111.20 of the Revised Code.

(2) "Transfer or discharge" means the movement of resident to
a bed outside of the facility in which the resident resides,
regardless of whether the bed is in the same physical plant.
"Transfer or discharge" does not include the movement of a
resident to a different bed in the same facility.

(3) "Physician" means an individual authorized under Chapter
4731. of the Revised Code to practice medicine and surgery or
osteopathic medicine and surgery.

(4) "Resident" means a resident of a facility who is one of
the following:

(a) A recipient of medicaid under section 5111.01 of the
Revised Code;

(b) A beneficiary under Title XVIII of the "Social Security
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

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<u>(B) The administrator of a facility may transfer or discharge</u>	35194
<u>a resident from the facility only under the following</u>	35195
<u>circumstances:</u>	35196
<u>(1) The welfare and needs of the resident cannot be met in</u>	35197
<u>the facility;</u>	35198
<u>(2) The resident's health has improved sufficiently so that</u>	35199
<u>the resident no longer needs the services provided by the</u>	35200
<u>facility;</u>	35201
<u>(3) The safety of individuals in the facility is endangered;</u>	35202
	35203
<u>(4) The health of individuals in the facility would otherwise</u>	35204
<u>be endangered;</u>	35205
<u>(5) The resident has failed, after reasonable and appropriate</u>	35206
<u>notice, to pay for a stay at the facility, regardless of the</u>	35207
<u>method of payment;</u>	35208
<u>(6) The facility ceases to operate;</u>	35209
<u>(7) The reason specified in division (C)(1) or (2) of section</u>	35210
<u>3721.16 of the Revised Code.</u>	35211
<u>In the case of a transfer or discharge described in division</u>	35212
<u>(B)(1), (2), (3), (4), or (5) of this section, the transfer or</u>	35213
<u>discharge shall be documented in the resident's medical record. In</u>	35214
<u>the case of a transfer or discharge described in division (B)(1)</u>	35215
<u>or (2) of this section, the documentation shall be made by the</u>	35216
<u>resident's physician. In the case of a transfer or discharge</u>	35217
<u>described in division (B)(4) of this section, the documentation</u>	35218
<u>shall be made by a physician. In the case of a transfer or</u>	35219
<u>discharge described in division (B)(5) of this section of a</u>	35220
<u>resident who becomes eligible for the medicaid program after</u>	35221
<u>admission to the facility, the facility may assess a resident only</u>	35222
<u>those charges that are allowed under the medicaid program.</u>	35223

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(C) The administrator of a facility proposing to transfer or 35224
discharge a resident as described in division (B) of this section 35225
shall notify in writing the resident and the resident's sponsor or 35226
legal representative of the proposed transfer or discharge. The 35227
notice shall be made in accordance with 42 C.F.R. 483.12, as 35228
amended. On the date notice is provided to a resident, the 35229
administrator shall forward a copy of the notice to the legal 35230
services office of the department of job and family services. 35231

Not later than ninety days after the date a resident receives 35232
notice of a proposed transfer or discharge, the resident may 35233
request a hearing before the department of job and family services 35234
under the hearing procedure described in section 5111.64 of the 35235
Revised Code. A facility shall permit a resident who requests a 35236
hearing not later than ten days after the date the resident 35237
receives the notice to remain in the facility pending the order of 35238
the hearing officer. 35239

Sec. 5111.64. (A) The department of job and family services 35240
shall establish and administer a hearing procedure for a resident 35241
of a facility to appeal a proposed transfer or discharge from a 35242
facility. The department may contract with the department of 35243
health to establish and administer the hearing procedure. If the 35244
department of job and family services contracts with the 35245
department of health, the department of health shall have the same 35246
authority under this section as the department of job and family 35247
services. 35248

(B) The hearing procedure shall provide for all of the 35249
following: 35250

(1) The hearing to be conducted by a hearing officer who 35251
shall be an employee of the department of job and family services 35252
or a hearing examiner who is under contract with the department; 35253

(2) The hearing to be tape-recorded; 35254

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(3) The hearing officer to issue an order based on the facts presented at the hearing not later than ninety days after receipt of the request for hearing;

(4) Notice of the contents of the order to be provided to the resident and the administrator of the facility.

(C) The order of a hearing officer described in division (B) of this section is final and not subject to appeal.

(D) If the department of job and family services finds that a facility is in violation of an order of a hearing officer, the department may apply to the court of common pleas of Franklin county or the county in which a facility is located for an order enjoining the violation or other appropriate relief to prohibit the violation. If the court finds that the facility is in violation of the order, the court shall grant an injunction, restraining order, or other appropriate relief. The court may award payment of reasonable attorney's fees by the facility.

(E) The department of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5111.85. (A) As used in this section, "medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid waiver component" does not include a managed care system established under section 5111.17 of the Revised Code.

(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:

(1) Eligibility requirements for the medicaid waiver

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<u>components;</u>	35285
<u>(2) The type, amount, duration, and scope of services the</u>	35286
<u>medicaid waiver components provide;</u>	35287
<u>(3) The conditions under which the medicaid waiver components</u>	35288
<u>cover services;</u>	35289
<u>(4) The amount the medicaid waiver components pay for</u>	35290
<u>services or the method by which the amount is determined;</u>	35291
<u>(5) The manner in which the medicaid waiver components pay</u>	35292
<u>for services;</u>	35293
<u>(6) Safeguards for the health and welfare of medicaid</u>	35294
<u>recipients receiving services under a medicaid waiver component;</u>	35295
<u>(7) Procedures for enforcing the rules, including</u>	35296
<u>establishing corrective action plans for, and imposing financial</u>	35297
<u>and administrative sanctions on, persons and government entities</u>	35298
<u>that violate the rules. The procedures shall include due process</u>	35299
<u>protections.</u>	35300
<u>(8) Other policies necessary for the efficient administration</u>	35301
<u>of the medicaid waiver components.</u>	35302
<u>(C) The director of job and family services may adopt</u>	35303
<u>different rules for the different medicaid waiver components. The</u>	35304
<u>rules shall be consistent with the terms of the waiver authorizing</u>	35305
<u>the medicaid waiver component.</u>	35306
<u>(D) The director of job and family services may conduct</u>	35307
<u>reviews of the medicaid waiver components. The reviews may include</u>	35308
<u>physical inspections of records and sites where services are</u>	35309
<u>provided under the medicaid waiver components and interviews of</u>	35310
<u>providers and recipients of the services. If the director</u>	35311
<u>determines pursuant to a review that a person or government entity</u>	35312
<u>has violated a rule governing a medicaid waiver component, the</u>	35313
<u>director may do the following:</u>	35314

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(1) If the violator is a county family services agency, take 35315
action under section 5101.24 of the Revised Code; 35316

(2) If the violator is not a county family services agency, 35317
establish a corrective action plan for the violator and impose 35318
fiscal, administrative, or both types of sanctions on the violator 35319
in accordance with rules adopted under division (B) of this 35320
section. 35321

Sec. 5111.86. The department of job and family services may 35322
enter into interagency agreements with one or more other state 35323
agencies to have the state agency administer one or more 35324
components of the medicaid program, or one or more aspects of a 35325
component, under the department's supervision. A state agency that 35326
enters into such an interagency agreement shall comply with any 35327
rules the director of job and family services has adopted 35328
governing the component, or aspect of the component, that the 35329
state agency is to administer, including any rules establishing 35330
review, audit, and corrective action plan requirements. 35331

A state agency that enters into an interagency agreement with 35332
the department under this section shall reimburse the department 35333
for the nonfederal share of the cost to the department of 35334
performing, or contracting for the performance of, a fiscal audit 35335
of the component of the medicaid program, or aspect of the 35336
component, that the state agency administers if rules governing 35337
the component, or aspect of the component, require that a fiscal 35338
audit be conducted. 35339

There is hereby created in the state treasury the medicaid 35340
administrative reimbursement fund. The department shall use money 35341
in the fund to pay for the nonfederal share of the cost of a 35342
fiscal audit for which a state agency is required by this section 35343
to reimburse the department. The department shall deposit the 35344
reimbursements into the fund. 35345

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Sec. 5111.87. As used in this section and section 5111.871 of the Revised Code, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

The director of job and family services may apply to the United States secretary of health and human services for one or more medicaid waivers under which home or community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the mentally retarded.

~~Sec. 5111.87~~ 5111.871. The department of job and family services shall enter into an interagency agreement with the department of mental retardation and developmental disabilities under section 5111.86 of the Revised Code with regard to the component of the medicaid program established by the department of job and family services under ~~a waiver~~ one or more waivers from the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended, to provide eligible ~~medical assistance~~ medicaid recipients with home or community-based services as an alternative to placement in an intermediate care facility for the mentally retarded ~~as defined in section 5111.20 of the Revised Code~~. The agreement shall provide for the department of mental retardation and developmental disabilities to administer the ~~program~~ component in accordance with the terms of the waiver. The ~~departments~~ directors of job and family services and mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing the ~~program~~ component.

If the department of mental retardation and developmental disabilities or the department of job and family services denies

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an individual's application for home or community-based services 35377
provided under this medicaid component, the department that made 35378
the denial shall timely notify the individual that the individual 35379
may request a hearing under section 5101.35 of the Revised Code. 35380

The departments of mental retardation and developmental 35381
disabilities and job and family services may approve, reduce, 35382
deny, or terminate a service included in the individualized 35383
service plan developed for a medicaid recipient eligible for home 35384
or community-based services provided under this medicaid 35385
component. The departments shall consider the recommendations a 35386
county board of mental retardation and developmental disabilities 35387
makes under division (A)(1)(c) of section 5126.055 of the Revised 35388
Code. If either department reduces, denies, or terminates a 35389
service, that department shall timely notify the medicaid 35390
recipient that the recipient may request a hearing under section 35391
5101.35 of the Revised Code. 35392

Sec. 5111.872. When the department of mental retardation and 35393
developmental disabilities allocates enrollment numbers to a 35394
county board of mental retardation and developmental disabilities 35395
for home or community-based services provided under the component 35396
of the medicaid program that the department administers under 35397
section 5111.871 of the Revised Code, the department shall 35398
consider all of the following: 35399

(A) The number of individuals with mental retardation or 35400
other developmental disability who are on a waiting list the 35401
county board establishes under division (C) of section 5126.042 of 35402
the Revised Code for those services; 35403

(B) The implementation component required by division (A)(3) 35404
of section 5126.054 of the Revised Code of the county board's plan 35405
approved under section 5123.046 of the Revised Code; 35406

(C) Anything else the department considers appropriate. 35407

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Sec. 5111.873. (A) Not later than the effective date of the 35408
first of any medicaid waivers the United States secretary of 35409
health and human services grants pursuant to a request made under 35410
section 5111.87 of the Revised Code, the director of job and 35411
family services shall adopt rules in accordance with Chapter 119. 35412
of the Revised Code establishing statewide fee schedules for home 35413
or community-based services provided under the component of the 35414
medicaid program that the department of mental retardation and 35415
developmental disabilities administers under section 5111.871 of 35416
the Revised Code. The rules shall provide for all of the 35417
following: 35418

(1) The department of mental retardation and developmental 35419
disabilities arranging for the initial and ongoing collection of 35420
cost information from a comprehensive, statistically valid sample 35421
of persons and government entities providing the services at the 35422
time the information is obtained; 35423

(2) The collection of consumer-specific information through 35424
an assessment instrument the department of mental retardation and 35425
developmental disabilities shall develop; 35426

(3) With the information collected pursuant to divisions 35427
(A)(1) and (2) of this section, an analysis of that information, 35428
and other information the director determines relevant, methods 35429
and standards for calculating the fee schedules that do all of the 35430
following: 35431

(a) Assure that the fees are consistent with efficiency, 35432
economy, and quality of care; 35433

(b) Consider the intensity of consumer resource need; 35434

(c) Recognize variations in different geographic areas 35435
regarding the resources necessary to assure the health and welfare 35436
of consumers; 35437

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(d) Recognize variations in environmental supports available 35438
to consumers. 35439

(B) As part of the process of adopting rules under this 35440
section, the director shall consult with the director of mental 35441
retardation and developmental disabilities, representatives of 35442
county boards of mental retardation and developmental 35443
disabilities, persons who provide the home or community-based 35444
services, and other persons and government entities the director 35445
identifies. 35446

(C) The directors of job and family services and mental 35447
retardation and developmental disabilities shall review the rules 35448
adopted under this section at times they determine to ensure that 35449
the methods and standards established by the rules for calculating 35450
the fee schedules continue to do everything that division (A)(3) 35451
of this section requires. 35452

Sec. 5119.01. The director of mental health is the chief 35453
executive and administrative officer of the department of mental 35454
health. The director may establish procedures for the governance 35455
of the department, conduct of its employees and officers, 35456
performance of its business, and custody, use, and preservation of 35457
departmental records, papers, books, documents, and property. 35458
Whenever the Revised Code imposes a duty upon or requires an 35459
action of the department or any of its institutions, the director 35460
shall perform the action or duty in the name of the department, 35461
except that the medical director appointed pursuant to section 35462
5119.07 of the Revised Code shall be responsible for decisions 35463
relating to medical diagnosis, treatment, rehabilitation, quality 35464
assurance, and the clinical aspects of the following: licensure of 35465
hospitals and residential facilities, research, community mental 35466
health plans, and delivery of mental health services. 35467

The director shall: 35468

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(A) Adopt rules for the proper execution of the powers and 35469
duties of the department with respect to the institutions under 35470
its control, and require the performance of additional duties by 35471
the officers of the institutions as necessary to fully meet the 35472
requirements, intents, and purposes of this chapter. In case of an 35473
apparent conflict between the powers conferred upon any managing 35474
officer and those conferred by such sections upon the department, 35475
the presumption shall be conclusive in favor of the department. 35476
35477

(B) Adopt rules for the nonpartisan management of the 35478
institutions under the department's control. An officer or 35479
employee of the department or any officer or employee of any 35480
institution under its control who, by solicitation or otherwise, 35481
exerts influence directly or indirectly to induce any other 35482
officer or employee of the department or any of its institutions 35483
to adopt the exerting officer's or employee's political views or 35484
to favor any particular person, issue, or candidate for office 35485
shall be removed from the exerting officer's or employee's office 35486
or position, by the department in case of an officer or employee, 35487
and by the governor in case of the director. 35488

(C) Appoint such employees, including the medical director, 35489
as are necessary for the efficient conduct of the department, and 35490
prescribe their titles and duties; 35491

(D) Prescribe the forms of affidavits, applications, medical 35492
certificates, orders of hospitalization and release, and all other 35493
forms, reports, and records that are required in the 35494
hospitalization or admission and release of all persons to the 35495
institutions under the control of the department, or are otherwise 35496
required under this chapter or Chapter 5122. of the Revised Code; 35497

(E) Contract with hospitals licensed by the department under 35498
section 5119.20 of the Revised Code for the care and treatment of 35499
mentally ill patients, or with persons, organizations, or agencies 35500

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for the custody, supervision, care, or treatment of mentally ill 35501
persons receiving services elsewhere than within the enclosure of 35502
a hospital operated under section 5119.02 of the Revised Code; 35503

(F) Exercise the powers and perform the duties relating to 35504
community mental health facilities and services that are assigned 35505
to the director under this chapter and Chapter 340. of the Revised 35506
Code; 35507

(G) Adopt rules under Chapter 119. of the Revised Code for 35508
the establishment of minimum standards, including standards for 35509
use of seclusion and restraint, of mental health services that are 35510
not inconsistent with nationally recognized applicable standards 35511
and that facilitate participation in federal assistance programs+. 35512
For purposes of certifying a community mental health program, 35513
agency, or facility under division (M) of section 5119.61 of the 35514
Revised Code and conducting reviews, evaluations, and audits under 35515
division (A)(3) of section 340.03 of the Revised Code, the rules 35516
shall establish minimum standards that the program, agency, or 35517
facility must meet in the prevention of inappropriate service 35518
delivery. Initial rules regarding the prevention of inappropriate 35519
service delivery shall be adopted not later than ninety days after 35520
the effective date of this amendment. 35521

(H) Develop and implement clinical evaluation and monitoring 35522
of services that are operated by the department; 35523

(I) At the director's discretion, adopt rules establishing 35524
standards for the adequacy of services provided by community 35525
mental health facilities, and certify the compliance of such 35526
facilities ~~with the standards for the purpose of authorizing their~~ 35527
~~participation in the health care plans of health insuring~~ 35528
~~corporations under Chapter 1751. and sickness and accident~~ 35529
~~insurance policies issued under Chapter 3923. of the Revised Code;~~ 35530

(J) Adopt rules establishing standards for the performance of 35531

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evaluations by a forensic center or other psychiatric program or
facility of the mental condition of defendants ordered by the
court under section 2919.271, or 2945.371 of the Revised Code, and
for the treatment of defendants who have been found incompetent to
stand trial and ordered by the court under section 2945.38,
2945.39, 2945.401, or 2945.402 of the Revised Code to receive
treatment in facilities;

(K) On behalf of the department, have the authority and
responsibility for entering into contracts and other agreements;

(L) Prepare and publish regularly a state mental health plan
that describes the department's philosophy, current activities,
and long-term and short-term goals and activities;

(M) Adopt rules in accordance with Chapter 119. of the
Revised Code specifying the supplemental services that may be
provided through a trust authorized by section 1339.51 of the
Revised Code;

(N) Adopt rules in accordance with Chapter 119. of the
Revised Code establishing standards for the maintenance and
distribution to a beneficiary of assets of a trust authorized by
section 1339.51 of the Revised Code;

(O) As used in division (I) of this section:

(1) "Community mental health facility" means a facility that
provides community mental health services and is included in the
community mental health plan for the alcohol, drug addiction, and
mental health service district in which it is located.

(2) "Community mental health service" means services, other
than inpatient services, provided by a community mental health
facility.

Sec. 5119.06. (A) The department of mental health shall:

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(1) Establish and support a program at the state level to 35561
promote a community support system in accordance with section 35562
340.03 of the Revised Code to be available for every alcohol, drug 35563
addiction, and mental health service district. The department 35564
shall define the essential elements of a community support system, 35565
shall assist in identifying resources and coordinating the 35566
planning, evaluation, and delivery of services to facilitate the 35567
access of mentally ill people to public services at federal, 35568
state, and local levels, and shall operate inpatient and other 35569
mental health services pursuant to the approved community mental 35570
health plan. 35571

(2) Provide training, consultation, and technical assistance 35572
regarding mental health programs and services and appropriate 35573
prevention and mental health promotion activities, including those 35574
that are culturally sensitive, to employees of the department, 35575
community mental health agencies and boards, and other agencies 35576
providing mental health services; 35577

(3) Promote and support a full range of mental health 35578
services that are available and accessible to all residents of 35579
this state, especially for severely mentally disabled children, 35580
adolescents, and adults, and other special target populations, 35581
including racial and ethnic minorities, as determined by the 35582
department. 35583

(4) Design and set criteria for the determination of severe 35584
mental disability; 35585

(5) Establish ~~criteria~~ standards for evaluation of mental 35586
health programs; 35587

(6) Promote, direct, conduct, and coordinate scientific 35588
research, taking ethnic and racial differences into consideration 35589
concerning the causes and prevention of mental illness, methods of 35590
providing effective services and treatment, and means of enhancing 35591

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the mental health of all residents of this state; 35592

(7) Foster the establishment and availability of vocational 35593
rehabilitation services and the creation of employment 35594
opportunities for consumers of mental health services, including 35595
members of racial and ethnic minorities; 35596

(8) Establish a program to protect and promote the rights, 35597
health, and safety of persons receiving mental health services, 35598
including the issuance of guidelines on informed consent and other 35599
rights; 35600

(9) Establish, in consultation with board of alcohol, drug 35601
addiction, and mental health services representatives and after 35602
consideration of the recommendations of the medical director, 35603
guidelines for the development of community mental health plans 35604
and the review and approval or disapproval of such plans submitted 35605
pursuant to section 340.03 of the Revised Code; 35606

(10) Promote the involvement of persons who are receiving or 35607
have received mental health services, including families and other 35608
persons having a close relationship to a person receiving mental 35609
health services, in the planning, evaluation, delivery, and 35610
operation of mental health services. 35611

(11) Notify and consult with the relevant constituencies that 35612
may be affected by rules, standards, and guidelines issued by the 35613
department of mental health. These constituencies shall include 35614
consumers of mental health services and their families, and may 35615
include public and private providers, employee organizations, and 35616
others when appropriate. Whenever the department proposes the 35617
adoption, amendment, or rescission of rules under Chapter 119. of 35618
the Revised Code, the notification and consultation required by 35619
this division shall occur prior to the commencement of proceedings 35620
under Chapter 119. The department shall adopt rules under Chapter 35621
119. of the Revised Code that establish procedures for the 35622

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notification and consultation required by this division. 35623

35624

(12) In cooperation with board of alcohol, drug addiction, 35625
and mental health services representatives, provide training 35626
regarding the provision of community-based mental health services 35627
to those department employees who are utilized in state-operated, 35628
community-based mental health services; 35629

(13) Provide ~~oversight and~~ consultation to the department of 35630
rehabilitation and correction ~~for~~ concerning the delivery of 35631
mental health services in state correctional institutions; 35632

~~(14) Audit mental health programs in state correctional~~ 35633
~~institutions operated by the department of rehabilitation and~~ 35634
~~correction for compliance with standards that have been jointly~~ 35635
~~developed and promulgated by the department of mental health and~~ 35636
~~the department of rehabilitation and correction. The standards~~ 35637
~~shall include monitoring mechanisms to provide for quality of~~ 35638
~~services in these programs.~~ 35639

(B) The department of mental health may negotiate and enter 35640
into agreements with other agencies and institutions, both public 35641
and private, for the joint performance of its duties. 35642

(C) The department shall adopt rules in accordance with 35643
Chapter 119. of the Revised Code as it considers necessary to 35644
administer the program established under division (A)(8) of this 35645
section. Initial rules regarding the health and safety of persons 35646
receiving mental health services shall be adopted not later than 35647
ninety days after the effective date of this amendment. 35648

Sec. 5119.61. Any provision in this chapter that refers to a 35649
board of alcohol, drug addiction, and mental health services also 35650
refers to the community mental health board in an alcohol, drug 35651
addiction, and mental health service district that has a community 35652
mental health board. 35653

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The director of mental health with respect to all facilities 35654
and programs established and operated under Chapter 340. of the 35655
Revised Code for mentally ill and emotionally disturbed persons, 35656
shall do all of the following: 35657

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 35658
that may be necessary to carry out the purposes of Chapter 340. 35659
and sections 5119.61 to 5119.63 of the Revised Code. 35660

(1) The rules shall include all of the following: 35661

(a) Rules governing a community mental health agency's 35662
services under section 340.091 of the Revised Code to an 35663
individual referred to the agency under division (C)(2) of section 35664
173.35 of the Revised Code; 35665

(b) For the purpose of division (A)(14) of section 340.03 of 35666
the Revised Code, rules governing the duties of mental health 35667
agencies and boards of alcohol, drug addiction, and mental health 35668
services under section 3722.18 of the Revised Code regarding 35669
referrals of individuals with mental illness or severe mental 35670
disability to adult care facilities and effective arrangements for 35671
ongoing mental health services for the individuals. The rules 35672
shall do at least the following: 35673

(i) Provide for agencies and boards to participate fully in 35674
the procedures owners and managers of adult care facilities must 35675
follow under division (A)(2) of section 3722.18 of the Revised 35676
Code; 35677

(ii) Specify the manner in which boards are accountable for 35678
ensuring that ongoing mental health services are effectively 35679
arranged for individuals with mental illness or severe mental 35680
disability who are referred by the board or mental health agency 35681
under contract with the board to an adult care facility. 35682

(c) Rules governing a board of alcohol, drug addiction, and 35683
mental health services when making a report to the director of 35684

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health under section 3722.17 of the Revised Code regarding the 35685
quality of care and services provided by an adult care facility to 35686
a person with mental illness or a severe mental disability. 35687

(2) Rules may be adopted to govern the method of paying a 35688
community mental health facility described in division (B) of 35689
section 5111.022 of the Revised Code for providing services 35690
established by division (A) of that section. Such rules must be 35691
consistent with the contract entered into between the departments 35692
~~of human job and family~~ services and mental health under division 35693
(E) of that section. 35694

(B) Adopt rules requiring each public or private agency 35695
providing mental health services or facilities under a contract 35696
with a board of alcohol, drug addiction, and mental health 35697
services and any program operated by such a board to have a 35698
written policy that addresses the rights of clients including all 35699
of the following: 35700

(1) The right to a copy of the agency's policy of client 35701
rights; 35702

(2) The right at all times to be treated with consideration 35703
and respect for the client's privacy and dignity; 35704

(3) The right to have access to the client's own psychiatric, 35705
medical, or other treatment records unless access is specifically 35706
restricted in the client's treatment plan for clear treatment 35707
reasons; 35708

(4) The right to have a client rights officer provided by the 35709
board or agency advise the client of the client's rights, 35710
including the client's rights under Chapter 5122. of the Revised 35711
Code if the client is committed to the board or agency. 35712

(C) Require each board of alcohol, drug addiction, and mental 35713
health services to ensure that each contract agency establishes 35714
grievance procedures available to all recipients of services or 35715

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applicants for services; 35716

(D) Define minimum standards for qualifications of personnel, 35717
professional services, and mental health professionals as defined 35718
in section 340.02 of the Revised Code; 35719

(E) Review and evaluate, and, taking into account the 35720
findings and recommendations of the board of alcohol, drug 35721
addiction, and mental health services of the district served by 35722
the program and the requirements and priorities of the state 35723
mental health plan, including the needs of residents of the 35724
district now residing in state mental institutions, approve and 35725
allocate funds to support community programs, and make 35726
recommendations for needed improvements to boards of alcohol, drug 35727
addiction, and mental health services; 35728

(F) Withhold state and federal funds for any program, in 35729
whole or in part, from a board of alcohol, drug addiction, and 35730
mental health services in the event of failure of that program to 35731
comply with Chapter 340. or section 5119.61 or 5119.62 of the 35732
Revised Code or rules of the department of mental health. The 35733
director shall identify the areas of noncompliance and the action 35734
necessary to achieve compliance. The director shall offer 35735
technical assistance to the board to achieve compliance. The 35736
director shall give the board a reasonable time within which to 35737
comply or to present its position that it is in compliance. Before 35738
withholding funds, a hearing shall be conducted to determine if 35739
there are continuing violations and that either assistance is 35740
rejected or the board is unable to achieve compliance. Subsequent 35741
to the hearing process, if it is determined that compliance has 35742
not been achieved, the director may allocate all or part of the 35743
withheld funds to a public or private agency to provide the 35744
services not in compliance until the time that there is 35745
compliance. The director shall establish rules pursuant to Chapter 35746
119. of the Revised Code to implement this division. 35747

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(G) Withhold state or federal funds from a board of alcohol, drug addiction, and mental health services that denies available service on the basis of religion, race, color, creed, sex, national origin, age, disability as defined in section 4112.01 of the Revised Code, developmental disability, or the inability to pay;

(H) Provide consultative services to community mental health programs with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;

(I) Provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.62 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;

(J)(1) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan, including services described in division (A) of section 5111.022 of the Revised Code that are provided by community health facilities described in division (B) of that section. The criteria established for a board's use in reviewing and evaluating the services provided through its plan shall include consideration of whether the providers of mental health services have prevented inappropriate service delivery. Initial criteria regarding the prevention of inappropriate service delivery shall be established not later than ninety days after the effective date of this amendment. The

(2) The department shall assess a board's review and evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. ~~The~~

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(3) The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The

(4) The department shall collect information that is necessary to perform ~~these~~ the functions specified in divisions (J)(1) to (3) of this section.

(K) Develop and operate a community mental health information system.

Boards of alcohol, drug abuse, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following:

(1) Information regarding units of services provided in whole or in part under contract with a board, including diagnosis and special needs, demographic information, the number of units of service provided, past treatment, financial status, and service dates in accordance with rules adopted by the department in accordance with Chapter 119. of the Revised Code;

(2) Financial information other than price or price-related data regarding expenditures of boards and community mental health agencies, including units of service provided, budgeted and actual expenses by type, and sources of funds.

Boards shall submit the information specified in division (K)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. The department shall not collect any information for the purpose of identifying by name any person who receives a service through a board of alcohol, drug addiction, and mental health services, except as required by state or federal law to validate appropriate reimbursement. For the purposes of division (K)(1) of this

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section, the department shall use an identification system that is 35810
consistent with applicable nationally recognized standards. 35811

(L) Review each board's plan submitted pursuant to section 35812
340.03 of the Revised Code and approve or disapprove it in whole 35813
or in part. Periodically, in consultation with representatives of 35814
boards and after considering the recommendations of the medical 35815
director, the director shall issue criteria for determining when a 35816
plan is complete, criteria for plan approval or disapproval, and 35817
provisions for conditional approval. The factors that the director 35818
considers may include, but are not limited to, the following: 35819

(1) The mental health needs of all persons residing within 35821
the board's service district, especially severely mentally 35822
disabled children, adolescents, and adults; 35823

(2) The demonstrated quality, effectiveness, efficiency, and 35824
cultural relevance of the services provided in each service 35825
district, the extent to which any services are duplicative of 35826
other available services, and whether the services meet the needs 35827
identified above; 35828

(3) The adequacy of the board's accounting for the 35829
expenditure of funds. 35830

If the director disapproves all or part of any plan, the 35831
director shall provide the board an opportunity to present its 35832
position. The director shall inform the board of the reasons for 35833
the disapproval and of the criteria that must be met before the 35834
plan may be approved. The director shall give the board a 35835
reasonable time within which to meet the criteria, and shall offer 35836
technical assistance to the board to help it meet the criteria. 35837

If the approval of a plan remains in dispute thirty days 35838
prior to the conclusion of the fiscal year in which the board's 35839
current plan is scheduled to expire, the board or the director may 35840

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request that the dispute be submitted to a mutually agreed upon
third-party mediator with the cost to be shared by the board and
the department. The mediator shall issue to the board and the
department recommendations for resolution of the dispute. Prior to
the conclusion of the fiscal year in which the current plan is
scheduled to expire, the director, taking into consideration the
recommendations of the mediator, shall make a final determination
and approve or disapprove the plan, in whole or in part.

(M) Visit and evaluate any community mental health program,
agency, or facility, in cooperation with a board of alcohol, drug
addiction, and mental health services, to determine if the
services meet minimum standards pursuant to division (G) of
section 5119.01 of the Revised Code. If the director determines
that the services meet minimum standards, the director shall so
certify.

If the director determines that the services of any program,
agency, or facility that has a contract with a board do not meet
minimum standards, the director shall identify the areas of
noncompliance, specify what action is necessary to meet the
standards, and offer technical assistance to the board so that it
may assist the program, agency, or facility to meet minimum
standards. The director shall give the board a reasonable time
within which to demonstrate that the services meet minimum
standards or to bring the program or facility into compliance with
the standards. If the director concludes that the services
continue to fail to meet minimum standards, the director may
request that the board reallocate the funds for those services to
another program, agency, or facility which meets minimum
standards. If the board does not reallocate those funds in a
reasonable period of time, the director may withhold state and
federal funds for the services and allocate those funds directly
to a public or private agency that meets minimum standards.

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Each program, agency, and facility shall pay a fee for the certification review required by this division. Fees shall be paid into the sale of goods and services fund created pursuant to section 5119.161 of the Revised Code.

~~The director shall adopt~~ (N)(1) Adopt rules under Chapter 119. of the Revised Code to implement ~~this~~ division (M) of this section. The rules shall do all of the following:

(1)(a) Establish the process for certification of services of programs, agencies, or facilities;

(2)(b) Set the amount of certification review fees based on a portion of the cost of performing the review;

(3)(c) Specify the type of notice and hearing to be provided prior to a decision whether to reallocate funds.

(2) For the purpose of increasing the cost-effectiveness of community mental health services, the department of mental health, not later than ninety days after the effective date of this amendment, shall reduce the certification requirements established in the rules adopted under division (N)(1) of this section.

Sec. 5120.10. (A)(1) The director of rehabilitation and correction, by rule, shall promulgate minimum standards for jails in Ohio, including minimum security jails dedicated under section 341.34 or 753.21 of the Revised Code. Whenever the director files a rule or an amendment to a rule in final form with both the secretary of state and the director of the legislative service commission pursuant to section 111.15 of the Revised Code, the director of rehabilitation and correction promptly shall send a copy of the rule or amendment, if the rule or amendment pertains to minimum jail standards, by ordinary mail to the political subdivisions or affiliations of political subdivisions that operate jails to which the standards apply.

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(2) The rules promulgated in accordance with division (A)(1) of this section shall serve as criteria for the investigative and supervisory powers and duties vested by division (D) of this section in the division of parole and community services of the department of rehabilitation and correction or in another division of the department to which those powers and duties are assigned.

(B) The director may initiate an action in the court of common pleas of the county in which a facility that is subject to the rules promulgated under division (A)(1) of this section is situated to enjoin compliance with the minimum standards for jails or with the minimum standards and minimum renovation, modification, and construction criteria for minimum security jails.

(C) Upon the request of an administrator of a jail facility, the chief executive of a municipal corporation, or a board of county commissioners, the director of rehabilitation and correction or the director's designee shall grant a variance from the minimum standards for jails in Ohio for a facility that is subject to one of those minimum standards when the director determines that strict compliance with the minimum standards would cause unusual, practical difficulties or financial hardship, that existing or alternative practices meet the intent of the minimum standards, and that granting a variance would not seriously affect the security of the facility, the supervision of the inmates, or the safe, healthful operation of the facility. If the director or the director's designee denies a variance, the applicant may appeal the denial pursuant to section 119.12 of the Revised Code.

(D) The following powers and duties shall be exercised by the division of parole and community services unless assigned to another division by the director:

(1) The investigation and supervision of county and municipal jails, workhouses, minimum security jails, and other correctional

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institutions and agencies; 35935

(2) The review and approval of plans submitted to the 35936
department of rehabilitation and correction pursuant to division 35937
(E) of this section; 35938

(3) The management and supervision of the adult parole 35939
authority created by section 5149.02 of the Revised Code; 35940

~~+~~3)(4) The review and approval of proposals for 35941
community-based correctional facilities and programs and district 35942
community-based correctional facilities and programs that are 35943
submitted pursuant to division (B) of section 2301.51 of the 35944
Revised Code; 35945

~~+~~4)(5) The distribution of funds made available to the 35946
division for purposes of assisting in the renovation, maintenance, 35947
and operation of community-based correctional facilities and 35948
programs and district community-based correctional facilities and 35949
programs in accordance with section 5120.112 of the Revised Code; 35950

~~+~~5)(6) The performance of the duty imposed upon the 35951
department of rehabilitation and correction in section 5149.31 of 35952
the Revised Code to establish and administer a program of 35953
subsidies to eligible municipal corporations, counties, and groups 35954
of contiguous counties for the development, implementation, and 35955
operation of community-based corrections programs; 35956

~~+~~6)(7) Licensing halfway houses and community residential 35957
centers for the care and treatment of adult offenders in 35958
accordance with section 2967.14 of the Revised Code; 35959

~~+~~7)(8) Contracting with a public or private agency or a 35960
department or political subdivision of the state that operates a 35961
licensed halfway house or community residential center for the 35962
provision of housing, supervision, and other services to parolees 35963
and probationers in accordance with section 2967.14 of the Revised 35964
Code. 35965

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Other powers and duties may be assigned by the director of rehabilitation and correction to the division of parole and community services. This section does not apply to the department of youth services or its institutions or employees.

(E) No plan for any new jail, workhouse, or lockup, or plan for a substantial addition or alteration to an existing jail, workhouse, or lockup, shall be adopted unless the officials responsible for adopting the plan have submitted it to the department of rehabilitation and correction for approval and the department has approved the plan as provided in division (D)(2) of this section.

Sec. 5122.31. All certificates, applications, records, and reports made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

(A) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

(B) When disclosure is provided for in this chapter or section 5123.60 of the Revised Code;

(C) That hospitals may release necessary medical information to insurers to obtain payment for goods and services furnished to the patient;

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(D) Pursuant to a court order signed by a judge; 35996

(E) That a patient shall be granted access to the patient's 35997
own psychiatric and medical records, unless access specifically is 35998
restricted in a patient's treatment plan for clear treatment 35999
reasons; 36000

(F) That hospitals and other institutions and facilities 36001
within the department of mental health may exchange psychiatric 36002
records and other pertinent information with other hospitals, 36003
institutions, and facilities of the department, and with community 36004
mental health agencies and boards of alcohol, drug addiction, and 36005
mental health services with which the department has a current 36006
agreement for patient care or services. Records and information 36007
that may be released pursuant to this division shall be limited to 36008
medication history, physical health status and history, financial 36009
status, summary of course of treatment in the hospital, summary of 36010
treatment needs, and a discharge summary, if any. 36011

(G) That a patient's family member who is involved in the 36012
provision, planning, and monitoring of services to the patient may 36013
receive medication information, a summary of the patient's 36014
diagnosis and prognosis, and a list of the services and personnel 36015
available to assist the patient and the patient's family, if the 36016
patient's treating physician determines that the disclosure would 36017
be in the best interests of the patient. No such disclosure shall 36018
be made unless the patient is notified first and receives the 36019
information and does not object to the disclosure. 36020

(H) That community mental health agencies may exchange 36021
psychiatric records and certain other information with the board 36022
of alcohol, drug addiction, and mental health services and other 36023
agencies in order to provide services to a person involuntarily 36024
committed to a board. Release of records under this division shall 36025
be limited to medication history, physical health status and 36026
history, financial status, summary of course of treatment, summary 36027

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of treatment needs, and discharge summary, if any. 36028

(I) That information may be disclosed to the executor or the 36029
administrator of an estate of a deceased patient when the 36030
information is necessary to administer the estate; 36031

(J) That records in the possession of the Ohio historical 36032
society may be released to the closest living relative of a 36033
deceased patient upon request of that relative; 36034

(K) That information may be disclosed to staff members of the 36035
appropriate board or to staff members designated by the director 36036
of mental health for the purpose of evaluating the quality, 36037
effectiveness, and efficiency of services and determining if the 36038
services meet minimum standards. Information obtained during such 36039
evaluations shall not be retained with the name of any patient. 36040
36041

(L) That records pertaining to the patient's diagnosis, 36042
course of treatment, treatment needs, and prognosis shall be 36043
disclosed and released to the appropriate prosecuting attorney if 36044
the patient was committed pursuant to section 2945.38, 2945.39, 36045
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 36046
attorney designated by the board for proceedings pursuant to 36047
involuntary commitment under this chapter. 36048

(M) That the department of mental health may exchange 36049
psychiatric hospitalization records, other mental health treatment 36050
records, and other pertinent information with the department of 36051
rehabilitation and correction to ensure continuity of care for 36052
inmates who are receiving mental health services in an institution 36053
of the department of rehabilitation and correction. The department 36054
shall not disclose those records unless the inmate is notified, 36055
receives the information, and does not object to the disclosure. 36056
The release of records under this division is limited to records 36057
regarding an inmate's medication history, physical health status 36058

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and history, summary of course of treatment, summary of treatment
needs, and a discharge summary, if any.

(N) That a community mental health agency that ceases to
operate may transfer to either a community mental health agency
that assumes its caseload or to the board of alcohol, drug
addiction, and mental health services of the service district in
which the patient resided at the time services were most recently
provided any treatment records that have not been transferred
elsewhere at the patient's request.

(O) Before records are disclosed pursuant to divisions (C),
(F), and (H) of this section, the custodian of the records shall
attempt to obtain the patient's consent for the disclosure. No
person shall reveal the contents of a medical record of a patient
except as authorized by law.

Sec. 5123.01. As used in this chapter:

(A) "Chief medical officer" means the licensed physician
appointed by the managing officer of an institution for the
mentally retarded with the approval of the director of mental
retardation and developmental disabilities to provide medical
treatment for residents of the institution.

(B) "Chief program director" means a person with special
training and experience in the diagnosis and management of the
mentally retarded, certified according to division (C) of this
section in at least one of the designated fields, and appointed by
the managing officer of an institution for the mentally retarded
with the approval of the director to provide habilitation and care
for residents of the institution.

(C) "Comprehensive evaluation" means a study, including a
sequence of observations and examinations, of a person leading to
conclusions and recommendations formulated jointly, with

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dissenting opinions if any, by a group of persons with special
training and experience in the diagnosis and management of persons
with mental retardation or a developmental disability, which group
shall include individuals who are professionally qualified in the
fields of medicine, psychology, and social work, together with
such other specialists as the individual case may require.

(D) "Education" means the process of formal training and
instruction to facilitate the intellectual and emotional
development of residents.

(E) "Habilitation" means the process by which the staff of
the institution assists the resident in acquiring and maintaining
those life skills that enable the resident to cope more
effectively with the demands of the resident's own person and of
the resident's environment and in raising the level of the
resident's physical, mental, social, and vocational efficiency.
Habilitation includes but is not limited to programs of formal,
structured education and training.

(F) "Habilitation center services" means services provided by
a habilitation center certified by the department of mental
retardation and developmental disabilities under section 5123.041
of the Revised Code and covered by the medicaid program pursuant
to rules adopted under section 5111.041 of the Revised Code.

(G) "Health officer" means any public health physician,
public health nurse, or other person authorized or designated by a
city or general health district.

~~(G)~~(H) "Home or community-based services" means
medicaid-funded home or community-based services provided under a
medicaid component the department of mental retardation and
developmental disabilities administers pursuant to section
5111.871 of the Revised Code.

(I) "Indigent person" means a person who is unable, without

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substantial financial hardship, to provide for the payment of an 36120
attorney and for other necessary expenses of legal representation, 36121
including expert testimony. 36122

~~(H)~~(J) "Institution" means a public or private facility, or a 36123
part of a public or private facility, that is licensed by the 36124
appropriate state department and is equipped to provide 36125
residential habilitation, care, and treatment for the mentally 36126
retarded. 36127

~~(I)~~(K) "Licensed physician" means a person who holds a valid 36128
certificate issued under Chapter 4731. of the Revised Code 36129
authorizing the person to practice medicine and surgery or 36130
osteopathic medicine and surgery, or a medical officer of the 36131
government of the United States while in the performance of the 36132
officer's official duties. 36133

~~(J)~~(L) "Managing officer" means a person who is appointed by 36134
the director of mental retardation and developmental disabilities 36135
to be in executive control of an institution for the mentally 36136
retarded under the jurisdiction of the department. 36137

~~(K)~~(M) "Medicaid" has the same meaning as in section 5111.01 36138
of the Revised Code. 36139

(N) "Medicaid case management services" means case management 36140
services provided to an individual with mental retardation or 36141
other developmental disability that the state medicaid plan 36142
requires. 36143

(O) "Mentally retarded person" means a person having 36144
significantly subaverage general intellectual functioning existing 36145
concurrently with deficiencies in adaptive behavior, manifested 36146
during the developmental period. 36147

~~(L)~~(P) "Mentally retarded person subject to 36148
institutionalization by court order" means a person eighteen years 36149
of age or older who is at least moderately mentally retarded and 36150

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in relation to whom, because of the person's retardation, either 36151
of the following conditions exist: 36152

(1) The person represents a very substantial risk of physical 36153
impairment or injury to self as manifested by evidence that the 36154
person is unable to provide for and is not providing for the 36155
person's most basic physical needs and that provision for those 36156
needs is not available in the community; 36157

(2) The person needs and is susceptible to significant 36158
habilitation in an institution. 36159

~~(M)~~(Q) "A person who is at least moderately mentally 36160
retarded" means a person who is found, following a comprehensive 36161
evaluation, to be impaired in adaptive behavior to a moderate 36162
degree and to be functioning at the moderate level of intellectual 36163
functioning in accordance with standard measurements as recorded 36164
in the most current revision of the manual of terminology and 36165
classification in mental retardation published by the American 36166
association on mental retardation. 36167

~~(N)~~(R) As used in this division, "substantial functional 36168
limitation," "developmental delay," and "established risk" have 36169
the meanings established pursuant to section 5123.011 of the 36170
Revised Code. 36171

"Developmental disability" means a severe, chronic disability 36172
that is characterized by all of the following: 36173

(1) It is attributable to a mental or physical impairment or 36174
a combination of mental and physical impairments, other than a 36175
mental or physical impairment solely caused by mental illness as 36176
defined in division (A) of section 5122.01 of the Revised Code. 36177

(2) It is manifested before age twenty-two. 36178

(3) It is likely to continue indefinitely. 36179

(4) It results in one of the following: 36180

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(a) In the case of a person under three years of age, at 36181
least one developmental delay or an established risk; 36182

(b) In the case of a person at least three years of age but 36183
under six years of age, at least two developmental delays or an 36184
established risk; 36185

(c) In the case of a person six years of age or older, a 36186
substantial functional limitation in at least three of the 36187
following areas of major life activity, as appropriate for the 36188
person's age: self-care, receptive and expressive language, 36189
learning, mobility, self-direction, capacity for independent 36190
living, and, if the person is at least sixteen years of age, 36191
capacity for economic self-sufficiency. 36192

(5) It causes the person to need a combination and sequence 36193
of special, interdisciplinary, or other type of care, treatment, 36194
or provision of services for an extended period of time that is 36195
individually planned and coordinated for the person. 36196

~~(O)~~(S) "Developmentally disabled person" means a person with 36197
a developmental disability. 36198

~~(P)~~(T) "State institution" means an institution that is 36199
tax-supported and under the jurisdiction of the department. 36200

~~(Q)~~(U) "Residence" and "legal residence" have the same 36201
meaning as "legal settlement," which is acquired by residing in 36202
Ohio for a period of one year without receiving general assistance 36203
prior to July 17, 1995, under former Chapter 5113. of the Revised 36204
Code, disability assistance under Chapter 5115. of the Revised 36205
Code, or assistance from a private agency that maintains records 36206
of assistance given. A person having a legal settlement in the 36207
state shall be considered as having legal settlement in the 36208
assistance area in which the person resides. No adult person 36209
coming into this state and having a spouse or minor children 36210
residing in another state shall obtain a legal settlement in this 36211

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state as long as the spouse or minor children are receiving public 36212
assistance, care, or support at the expense of the other state or 36213
its subdivisions. For the purpose of determining the legal 36214
settlement of a person who is living in a public or private 36215
institution or in a home subject to licensing by the department of 36216
job and family services, the department of mental health, or the 36217
department of mental retardation and developmental disabilities, 36218
the residence of the person shall be considered as though the 36219
person were residing in the county in which the person was living 36220
prior to the person's entrance into the institution or home. 36221
Settlement once acquired shall continue until a person has been 36222
continuously absent from Ohio for a period of one year or has 36223
acquired a legal residence in another state. A woman who marries a 36224
man with legal settlement in any county immediately acquires the 36225
settlement of her husband. The legal settlement of a minor is that 36226
of the parents, surviving parent, sole parent, parent who is 36227
designated the residential parent and legal custodian by a court, 36228
other adult having permanent custody awarded by a court, or 36229
guardian of the person of the minor, provided that: 36230

(1) A minor female who marries shall be considered to have 36231
the legal settlement of her husband and, in the case of death of 36232
her husband or divorce, she shall not thereby lose her legal 36233
settlement obtained by the marriage. 36234

(2) A minor male who marries, establishes a home, and who has 36235
resided in this state for one year without receiving general 36236
assistance prior to July 17, 1995, under former Chapter 5113. of 36237
the Revised Code, disability assistance under Chapter 5115. of the 36238
Revised Code, or assistance from a private agency that maintains 36239
records of assistance given shall be considered to have obtained a 36240
legal settlement in this state. 36241

(3) The legal settlement of a child under eighteen years of 36242
age who is in the care or custody of a public or private child 36243

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caring agency shall not change if the legal settlement of the 36244
parent changes until after the child has been in the home of the 36245
parent for a period of one year. 36246

No person, adult or minor, may establish a legal settlement 36247
in this state for the purpose of gaining admission to any state 36248
institution. 36249

~~(R)~~(V)(1) "Resident" means, subject to division (R)(2) of 36250
this section, a person who is admitted either voluntarily or 36251
involuntarily to an institution or other facility pursuant to 36252
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 36253
Code subsequent to a finding of not guilty by reason of insanity 36254
or incompetence to stand trial or under this chapter who is under 36255
observation or receiving habilitation and care in an institution. 36256

(2) "Resident" does not include a person admitted to an 36257
institution or other facility under section 2945.39, 2945.40, 36258
2945.401, or 2945.402 of the Revised Code to the extent that the 36259
reference in this chapter to resident, or the context in which the 36260
reference occurs, is in conflict with any provision of sections 36261
2945.37 to 2945.402 of the Revised Code. 36262

~~(S)~~(W) "Respondent" means the person whose detention, 36263
commitment, or continued commitment is being sought in any 36264
proceeding under this chapter. 36265

~~(T)~~(X) "Working day" and "court day" mean Monday, Tuesday, 36266
Wednesday, Thursday, and Friday, except when such day is a legal 36267
holiday. 36268

~~(U)~~(Y) "Prosecutor" means the prosecuting attorney, village 36269
solicitor, city director of law, or similar chief legal officer 36270
who prosecuted a criminal case in which a person was found not 36271
guilty by reason of insanity, who would have had the authority to 36272
prosecute a criminal case against a person if the person had not 36273
been found incompetent to stand trial, or who prosecuted a case in 36274

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which a person was found guilty. 36275

~~(V)~~(Z) "Court" means the probate division of the court of 36276
common pleas. 36277

Sec. 5123.041. (A) As used in this section, "habilitation 36278
center" means a habilitation center ~~certified under division (C)~~ 36279
~~of this section for the provision of that provides~~ habilitation 36280
center services under section 5111.041 of the Revised Code. 36281

(B) The department of mental retardation and developmental 36282
disabilities shall do all of the following pursuant to an 36283
interagency agreement with the department of job and family 36284
services entered into under section 5111.86 of the Revised Code: 36285

(1) Certify habilitation centers that meet the certification 36286
requirements established by rules adopted by the director of job 36287
and family services under section 5111.041 of the Revised Code; 36288

(2) Accept and process medicaid reimbursement claims from 36289
habilitation centers providing habilitation center services to 36290
medicaid recipients under section 5111.041 of the Revised Code; 36291

(3) With medicaid funds provided to the department from the 36292
department of job and family services, pay the medicaid 36293
reimbursement claims accepted and processed under division (B)(2) 36294
of this section; 36295

(4) Perform the other duties included in the interagency 36296
agreement. 36297

(C) The director of mental retardation and developmental 36298
disabilities shall adopt rules in accordance with Chapter 119. of 36299
the Revised Code that do all of the following: 36300

(1) ~~Specify standards~~ Establish procedures for certification 36301
of habilitation centers; 36302

(2) ~~Define habilitation services and programs, other than~~ 36303

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~~services provided by the department of education;~~ 36304

~~(3) Establish the fee that may be assessed under division (D)~~ 36305
~~of this section;~~ 36306

~~(4)(3) Specify how the department of mental retardation and~~ 36307
~~developmental disabilities will implement and administer the~~ 36308
~~habilitation services program perform its duties under this~~ 36309
~~section.~~ 36310

~~(C) The director shall certify habilitation centers that meet~~ 36311
~~the standards specified by rules adopted under this section.~~ 36312

(D) The department of mental retardation and developmental 36313
disabilities may assess the fee established by rule under division 36314
~~(B)(3)(C)(2)~~ of this section for providing services related to the 36315
~~habilitation services program performing its duties under this~~ 36316
section. The fee may be retained from any funds payment the 36317
department ~~receives for a habilitation center under Title XIX of~~ 36318
~~the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301,~~ 36319
~~as amended makes under division (B)(3) of this section.~~ 36320

Sec. 5123.044. The department of mental retardation and 36321
developmental disabilities shall determine whether county boards 36322
of mental retardation and developmental disabilities are complying 36323
with section 5126.047 of the Revised Code in accordance with a 36324
methodology the department shall establish. The department shall 36325
provide assistance to an individual with mental retardation or 36326
other developmental disability who requests assistance with the 36327
individual's right under section 5126.047 of the Revised Code to 36328
choose a provider of habilitation, vocational, community 36329
employment, residential, or supported living services or if the 36330
department is notified of a county board's alleged violation of 36331
the individual's right to choose such a provider. 36332

Sec. 5123.045. (A) No person or government entity shall 36333

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receive payment for providing home or community-based services 36334
unless certified under this section or certified as a supported 36335
living provider under section 5126.431 of the Revised Code. 36336

(B) The department of mental retardation and developmental 36337
disabilities shall do both of the following in accordance with 36338
Chapter 119. of the Revised Code: 36339

(1) Certify a person or government entity to provide home or 36340
community-based services if the person or government entity 36341
satisfies the requirements for certification established by rules 36342
adopted under division (C) of this section; 36343

(2) Revoke a certificate when required to do so by rules 36344
adopted under division (C) of this section. 36345

(C) The director of mental retardation and developmental 36346
disabilities shall adopt rules in accordance with Chapter 119. of 36347
the Revised Code establishing certification requirements and 36348
procedures for a person or government entity that seeks to provide 36349
home or community-based services and is not certified as a 36350
supported living provider under section 5126.431 of the Revised 36351
Code. The rules shall include procedures for all of the following: 36352
36353

(1) Ensuring that providers comply with section 5126.281 of 36354
the Revised Code; 36355

(2) Evaluating the services provided to ensure that they are 36356
provided in a quality manner advantageous to the individual 36357
receiving the services and protecting the due process rights of 36358
any person affected by a decision made following an evaluation. 36359
The procedures shall require that all of the following be 36360
considered as part of an evaluation: 36361

(a) The provider's experience and financial responsibility; 36362
36363

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(b) The provider's ability to comply with standards for the 36364
home or community-based services that the provider provides; 36365

(c) The provider's ability to meet the needs of the 36366
individuals served; 36367

(d) Any other factor the director considers relevant. 36368

(3) Revoking a provider's certificate. The procedures may 36369
include revoking a certificate for good cause, including 36370
mifeasance, malfeasance, nonfeasance, confirmed abuse or neglect, 36371
financial irresponsibility, or other conduct the director 36372
determines is injurious to individuals being served. 36373

(D) The rules adopted under division (C) of this section 36374
shall allow a person or government entity to automatically satisfy 36375
a requirement for certification under this section if the person 36376
holds a current, valid license under section 5123.19 of the 36377
Revised Code to operate a residential facility and had to satisfy 36378
the requirement to obtain the residential facility license. 36379

(E) The records of an evaluation conducted in accordance with 36380
rules adopted under division (C)(2) of this section are public 36381
records for purposes of section 149.43 of the Revised Code and 36382
shall be made available on request of any person, including 36383
individuals being served, individuals seeking home or 36384
community-based services, and county boards of mental retardation 36385
and developmental disabilities. 36386

Sec. 5123.046. The department of mental retardation and 36387
developmental disabilities shall review each plan it receives from 36388
a county board of mental retardation and developmental 36389
disabilities under section 5126.054 of the Revised Code and, in 36390
consultation with the department of job and family services and 36391
office of budget and management, approve each plan that includes 36392
all the information and conditions specified in that section. A 36393

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plan shall be approved or disapproved not later than forty-five 36394
days after the last of the plan's components are submitted to the 36395
department under division (B) of section 5126.054 of the Revised 36396
Code. 36397

In approving plans under this section, the department shall 36398
ensure that the aggregate of all plans provide for the increased 36399
enrollment into home or community-based services during each state 36400
fiscal year of at least five hundred individuals who did not 36401
receive residential services, supported living, or home or 36402
community-based services the prior state fiscal year if the 36403
department has enough additional enrollment available for this 36404
purpose. 36405

If it approves a county board's plan, the department may 36406
authorize distribution to the county board of amounts the 36407
department has allocated to the county board for home or 36408
community-based services. The department may distribute the 36409
amounts within fifteen days of the distribution authorization. The 36410
department may distribute the amounts directly to the county board 36411
or assign the amounts to home or community-based service 36412
allocations used for payment authorization of home or 36413
community-based services. 36414

The department shall establish accountability mechanisms that 36415
the department shall use to determine whether a county board is 36416
complying with the programmatic and financial outcomes specified 36417
its approved plan. If the department determines that a county 36418
board is not in compliance with the programmatic or financial 36419
outcomes specified in its approved plan, the department may take 36420
corrective action, including either of the following: 36421

(A) Providing the county board technical assistance; 36422

(B) Suspending the county board's plan and entering into a 36423
contract with a person or government entity selected by the 36424

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department under which the administration and implementation of 36425
the plan is assigned to the person or government entity. The 36426
department shall re-approve the county board's plan and allow the 36427
county board to resume administration and implementation of the 36428
plan when the department is satisfied that the county board has 36429
successfully implemented all parts of a plan of correction and is 36430
capable of complying with the programmatic or financial outcomes 36431
specified in the plan. 36432

Sec. 5123.047. (A) The department of mental retardation and 36433
developmental disabilities shall pay the nonfederal share of 36434
medicaid expenditures for habilitation center services provided to 36435
an individual with mental retardation or other developmental 36436
disability unless section 5111.041 of the Revised Code requires a 36437
county board of mental retardation and developmental disabilities 36438
or a school district to pay the nonfederal share. 36439

(B) The department shall pay the nonfederal share of medicaid 36440
expenditures for medicaid case management services if either of 36441
the following apply: 36442

(1) The services are provided to an individual with mental 36443
retardation or other developmental disability who a county board 36444
has determined under section 5126.041 of the Revised Code is not 36445
eligible for county board services; 36446

(2) The services are provided to an individual with mental 36447
retardation or other developmental disability by a public or 36448
private agency with which the department has contracted under 36449
section 5123.56 of the Revised Code to provide protective services 36450
to the individual. 36451

(C) The department shall pay the nonfederal share of medicaid 36452
expenditures for home or community-based services provided to an 36453
individual with mental retardation or other developmental 36454
disability who a county board has determined under section 36455

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5126.041 of the Revised Code is not eligible for county board 36456
services. 36457

Sec. 5123.048. (A) For state fiscal year 2002, the department 36458
of mental retardation and developmental disabilities shall assign 36459
to a county board of mental retardation and developmental 36460
disabilities the nonfederal share of medicaid expenditures for 36461
habilitation center services that a private habilitation center 36462
provides if all of the following apply: 36463

(1) The individuals who receive the services also received 36464
the services from the center pursuant to a contract the center had 36465
with the department in state fiscal year 2001; 36466

(2) The county board determined under section 5126.041 of the 36467
Revised Code that the individuals who receive the services are 36468
eligible for county board services; 36469

(3) The county board contracts with the center to provide the 36470
services after the center's contract with the department ends. 36471

(B) The department shall also make the assignment under 36472
division (A) of this section for each successive state fiscal year 36473
that the county board contracts with the private habilitation 36474
center to provide the habilitation center services to the 36475
individuals who received the services pursuant to the contract the 36476
department had with the center in state fiscal year 2001. 36477

(C) The amount the department shall assign under divisions 36478
(A) and (B) of this section shall be adequate to ensure that the 36479
habilitation center services the individuals receive are 36480
comparable in scope to the habilitation center services they 36481
received when the private habilitation center was under contract 36482
with the department. 36483

(D) A county board shall use the assignment it receives under 36484
divisions (A) and (B) of this section to pay the nonfederal share 36485

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of the medicaid expenditures for the habilitation center services 36486
the county board is required by division (D) of section 5111.041 36487
of the Revised Code to pay. 36488

Sec. 5123.049. The director of mental retardation and 36489
developmental disabilities shall adopt rules in accordance with 36490
Chapter 119. of the Revised Code governing the authorization and 36491
payment of home or community-based services, medicaid case 36492
management services, and habilitation center services. The rules 36493
shall provide for private providers of the services to receive one 36494
hundred per cent of the medicaid allowable payment amount and for 36495
government providers of the services to receive the federal share 36496
of the medicaid allowable payment, less the amount withheld as a 36497
fee under section 5123.0412 of the Revised Code and any amount 36498
that may be required to be deposited into a county MR/DD medicaid 36499
reserve fund under section 5705.091 of the Revised Code. The rules 36500
shall establish the process by which county boards of mental 36501
retardation and developmental disabilities shall certify and 36502
provide the nonfederal share of medicaid expenditures that the 36503
county board is required by division (A) of section 5126.056 of 36504
the Revised Code to pay. 36505

Sec. 5123.0410. (A) An individual with mental retardation or 36506
other developmental disability who moves from one county in this 36507
state to another county in this state shall receive home or 36508
community-based services in the new county that are comparable in 36509
scope to the home or community-based services the individual 36510
receives in the prior county at the time the individual moves. If 36511
the county board serving the county to which the individual moves 36512
determines under section 5126.041 of the Revised Code that the 36513
individual is eligible for county board services, the county board 36514
shall ensure that the individual receives the comparable services. 36515
If the county board does not make that determination, the 36516

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department of mental retardation and developmental disabilities 36517
shall ensure that the individual receives the comparable services. 36518

If the home or community-based services that the individual 36519
receives at the time the individual moves includes residential 36520
services, the department shall reduce the amount the department 36521
allocates to the county board serving the county the individual 36522
left for those residential services by an amount that equals the 36523
payment the department authorizes or projects, or both, for those 36524
services from the last day the individual resides in the county to 36525
the last day of the state fiscal year in which the individual 36526
moves. The department shall increase the amount the department 36527
allocates to the county board serving the county the individual 36528
moves to by the same amount. The department shall make the 36529
reduction and increase effective the day the department determines 36530
the individual has residence in the new county. The department 36531
shall determine the amount that is to be reduced and increased in 36532
accordance with the department's rules for authorizing payments 36533
for home or community-based services established adopted under 36534
section 5123.049 of the Revised Code. The department shall 36535
annualize the reduction and increase for the subsequent state 36536
fiscal year as necessary. 36537

Sec. 5123.0411. The department of mental retardation and 36538
developmental disabilities may bring a mandamus action against a 36539
county board of mental retardation and developmental disabilities 36540
that fails to pay the nonfederal share of medicaid expenditures 36541
that the county board is required by division (A) of section 36542
5126.056 of the Revised Code to pay. The department may bring the 36543
mandamus action in the court of common pleas of the county served 36544
by the county board or in the Franklin county court of common 36545
pleas. 36546

Sec. 5123.0412. (A) At times the department of mental 36547

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retardation and developmental disabilities determines, the 36548
department shall charge each county board of mental retardation 36549
and developmental disabilities a fee equal to one per cent of the 36550
total value of all medicaid paid claims for habilitation center 36551
services, medicaid case management services, and home or 36552
community-based services for which the county board contracts or 36553
provides itself. No county board shall pass the cost of a fee 36554
charged to the county board under this section on to a person or 36555
government entity with which the county board contracts to provide 36556
the services. 36557

(B) Two-thirds of the fees collected under this section shall 36558
be deposited into ODMR/DD administration and oversight fund, which 36559
is hereby created in the state treasury. One-third of the fees 36560
collected under this section shall be deposited into the ODJFS 36561
administration and oversight fund, which is hereby created in the 36562
state treasury. The department of mental retardation and 36563
developmental disabilities shall use the money in the ODMR/DD 36564
administration and oversight fund and the department of job and 36565
family services shall use the money in the ODJFS administration 36566
and oversight fund for both of the following purposes: 36567

(1) The administrative and oversight costs of habilitation 36568
center services, medicaid case management services, and home or 36569
community-based services that a county board develops and monitors 36570
and the county board or a person or government entity under 36571
contract with the county board provides. The administrative and 36572
oversight costs shall include costs for staff, systems, and other 36573
resources the departments need and dedicate solely to the 36574
following duties associated with the services: 36575

(a) Eligibility determinations; 36576

(b) Training; 36577

(c) Fiscal management; 36578

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<u>(d) Claims processing;</u>	36579
<u>(e) Quality assurance oversight;</u>	36580
<u>(f) Other duties the departments identify.</u>	36581
<u>(2) Providing technical support to county boards' local</u>	36582
<u>administrative authority under section 5126.055 of the Revised</u>	36583
<u>Code for the services.</u>	36584
<u>(C) The departments of mental retardation and developmental</u>	36585
<u>disabilities and job and family services shall enter into an</u>	36586
<u>interagency agreement to provide for the departments to coordinate</u>	36587
<u>the staff whose costs are paid for with money in the ODMR/DD</u>	36588
<u>administration and oversight fund and the ODJFS administration and</u>	36589
<u>oversight fund.</u>	36590
<u>(D) The departments shall submit an annual report to the</u>	36591
<u>director of budget and management certifying how the departments</u>	36592
<u>spent the money in the ODMR/DD administration and oversight fund</u>	36593
<u>and the ODJFS administration and oversight fund for the purposes</u>	36594
<u>specified in division (B) of this section.</u>	36595
<u>Sec. 5123.0413. The department of mental retardation and</u>	36596
<u>developmental disabilities, in consultation with the department of</u>	36597
<u>job and family services and county boards of mental retardation</u>	36598
<u>and developmental disabilities, shall plan for the establishment,</u>	36599
<u>funding, and management of one or more of the following to pay for</u>	36600
<u>extraordinary costs, including extraordinary costs for services to</u>	36601
<u>individuals with mental retardation or other developmental</u>	36602
<u>disability, and ensure the availability of adequate funds in the</u>	36603
<u>event a county property tax levy for services for individuals with</u>	36604
<u>mental retardation or other developmental disability fails:</u>	36605
<u>(A) County MR/DD medicaid reserve funds;</u>	36606
<u>(B) A state MR/DD risk fund;</u>	36607

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(C) A state insurance against MR/DD risk fund. 36608

Sec. 5123.60. (A) A legal rights service is hereby created 36609
and established to protect and advocate the rights of mentally ill 36610
persons, mentally retarded persons, developmentally disabled 36611
persons, and other disabled persons who may be represented by the 36612
service pursuant to division (L) of this section; to receive and 36613
act upon complaints concerning institutional and hospital 36614
practices and conditions of institutions for mentally retarded or 36615
developmentally disabled persons and hospitals for the mentally 36616
ill; and to assure that all persons detained, hospitalized, 36617
discharged, or institutionalized, and all persons whose detention, 36618
hospitalization, discharge, or institutionalization is sought or 36619
has been sought under this chapter or Chapter 5122. of the Revised 36620
Code are fully informed of their rights and adequately represented 36621
by counsel in proceedings under this chapter or Chapter 5122. of 36622
the Revised Code and in any proceedings to secure the rights of 36623
~~such~~ those persons. Notwithstanding the definitions of "mentally 36624
retarded person" and "developmentally disabled person" in section 36625
5123.01 of the Revised Code, the legal rights service shall 36626
determine who is a mentally retarded or developmentally disabled 36627
person for purposes of this section and sections 5123.601 to 36628
5123.604 of the Revised Code. 36629

(B) In regard to those persons detained, hospitalized, or 36630
institutionalized under Chapter 5122. of the Revised Code, the 36631
legal rights service shall undertake formal representation only of 36632
those persons who are involuntarily detained, hospitalized, or 36633
institutionalized pursuant to sections 5122.10 to 5122.15 of the 36634
Revised Code, and those voluntarily detained, hospitalized, or 36635
institutionalized who are minors, who have been adjudicated 36636
incompetent, who have been detained, hospitalized, or 36637
institutionalized in a public hospital, or who have requested 36638
representation by the legal rights service. If a person referred 36639

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to in division (A) of this section voluntarily requests in writing 36640
that the legal rights service terminate participation in the 36641
person's case, such involvement shall cease. 36642

(C) Any person voluntarily hospitalized or institutionalized 36643
in a public hospital under division (A) of section 5122.02 of the 36644
Revised Code, after being fully informed of the person's rights 36645
~~pursuant to~~ under division (A) of this section, may, by written 36646
request, waive assistance by the legal rights service if the 36647
waiver is knowingly and intelligently made, without duress or 36648
coercion. 36649

The waiver may be rescinded at any time by the voluntary 36650
patient or resident, or by the voluntary patient's or resident's 36651
legal guardian. 36652

(D)(1) The legal rights service commission is hereby created 36653
for the purposes of appointing an administrator of the legal 36654
rights service, advising the administrator, assisting the 36655
administrator in developing a budget, and establishing general 36656
policy guidelines for the legal rights service. The commission may 36657
receive and act upon appeals of personnel decisions by the 36658
administrator. 36659

(2) The commission shall consist of seven members. One 36660
member, who shall serve as chairperson, shall be appointed by the 36661
chief justice of the supreme court, three members shall be 36662
appointed by the speaker of the house of representatives, and 36663
three members shall be appointed by the president of the senate. 36664
At least two members shall have experience in the field of 36665
developmental disabilities, and at least two members shall have 36666
experience in the field of mental health. No member shall be a 36667
provider or related to a provider of services to mentally 36668
retarded, developmentally disabled, or mentally ill persons. ~~Terms~~ 36669

(3) Terms of office of the members of the commission shall be 36670

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for three years, each term ending on the same day of the month of 36671
the year as did the term which it succeeds. Each member shall 36672
serve subsequent to the expiration of the member's term until a 36673
successor is appointed and qualifies, or until sixty days has 36674
elapsed, whichever occurs first. ~~All~~ No member shall serve more 36675
than two consecutive terms. 36676

All vacancies in the membership of the commission shall be 36677
filled in the manner prescribed for the regular appointments to 36678
the commission and shall be limited to the unexpired terms. ~~No~~ 36679
~~member shall serve more than two consecutive terms.~~ 36680

(4) The commission shall meet at least four times each year. 36681
Members shall be reimbursed for their necessary and actual 36682
expenses incurred in the performance of their official duties. 36683

(5) The administrator of the legal rights service shall be 36684
appointed for a five-year term, subject to removal for mental or 36685
physical incapacity to perform the duties of the office, 36686
conviction of violation of any law relating to the administrator's 36687
powers and duties, or other good cause shown. 36688

The administrator shall be a person who has had special 36689
training and experience in the type of work with which the legal 36690
rights service is charged. If the administrator is not an 36691
attorney, the administrator shall seek legal counsel when 36692
appropriate. The salary of the administrator shall be established 36693
in accordance with section 124.14 of the Revised Code. 36694

(E) The legal rights service shall be completely independent 36695
of the department of mental health and the department of mental 36696
retardation and developmental disabilities and, notwithstanding 36697
section 109.02 of the Revised Code, shall also be independent of 36698
the office of the attorney general. The administrator of the legal 36699
rights service, staff, and attorneys designated by the 36700
administrator to represent persons detained, hospitalized, or 36701
institutionalized under this chapter or Chapter 5122. of the 36702

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Revised Code shall have ready access to the following:

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(1) During normal business hours and at other reasonable times, ~~to~~ all records relating to expenditures of state and federal funds or to the commitment, care, treatment, and habilitation of all persons represented by the legal rights service, including those who may be represented pursuant to division (L) of this section, or persons detained, hospitalized, institutionalized, or receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code that are records maintained by the following entities providing services for those persons: departments; institutions; hospitals; community residential facilities; boards of alcohol, drug addiction, and mental health services; county boards of mental retardation and developmental disabilities; contract agencies of those boards; and any other entity providing services to persons who may be represented by the service pursuant to division (L) of this section;

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(2) ~~To any~~ Any records maintained in computerized data banks of the departments or boards or, in the case of persons who may be represented by the service pursuant to division (L) of this section, any other entity that provides services to those persons;

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(3) During their normal working hours, ~~to~~ personnel of the departments, facilities, boards, agencies, institutions, hospitals, and other service-providing entities;

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(4) At any time, ~~to~~ all persons detained, hospitalized, or institutionalized; persons receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and persons who may be represented by the service pursuant to division (L) of this section.

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(F) The administrator of the legal rights service shall do the following:

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- (1) Administer and organize the work of the legal rights service and establish administrative or geographic divisions as the administrator considers necessary, proper, and expedient;
- (2) Adopt and promulgate rules and prescribe duties for the efficient conduct of the business and general administration of the legal rights service;
- (3) Appoint and discharge employees, and hire ~~such~~ experts, consultants, advisors, or other professionally qualified persons as the administrator considers necessary to carry out the duties of the legal rights service;
- (4) Apply for and accept grants of funds, and accept charitable gifts and bequests;
- (5) Prepare and submit a budget to the general assembly for the operation of the legal rights service;
- (6) Enter into contracts and make ~~such~~ expenditures ~~as are~~ necessary for the efficient operation of the legal rights service;
- (7) Annually prepare a report of activities and submit copies of the report to the governor, the chief justice of the supreme court, the president of the senate, the speaker of the house of representatives, the director of mental health, and the director of mental retardation and developmental disabilities, and make the report available to the public.
- (G) The legal rights service may act directly or contract with other organizations or individuals for the provision of the services envisioned under this section. Whenever possible, the administrator shall attempt to facilitate the resolution of complaints through administrative channels. If attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section if the remedies or approaches are

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approved by an affirmative vote of at least four members of the 36765
commission. Relationships between personnel and the agents of the 36766
legal rights service and its clients shall be fiduciary 36767
relationships, and all communications shall be confidential, as if 36768
between attorney and client. 36769

(H) The legal rights service, on the order of the 36770
administrator, with the approval by an affirmative vote of at 36771
least four members of the commission, may compel by subpoena the 36772
appearance and sworn testimony of any person the administrator 36773
reasonably believes may be able to provide information or to 36774
produce any documents, books, records, papers, or other 36775
information necessary to carry out its duties. 36776

(I) The legal rights service may conduct public hearings. 36777

(J) The legal rights service may request from any 36778
governmental agency any cooperation, assistance, services, or data 36779
that will enable it to perform its duties. 36780

(K) In any malpractice action filed against the administrator 36781
of the legal rights service, a member of the staff of the legal 36782
rights service, or an attorney designated by the administrator to 36783
perform legal services under division (E) of this section, the 36784
state shall, when the administrator, member, or attorney has acted 36785
in good faith and in the scope of employment, indemnify the 36786
administrator, member, or attorney for any judgment awarded or 36787
amount negotiated in settlement, and for any court costs or legal 36788
fees incurred in defense of the claim. 36789

This division does not limit or waive, and shall not be 36790
construed to limit or waive, any defense that is available to the 36791
legal rights service, its administrator or employees, persons 36792
under a personal services contract with it, or persons designated 36793
under division (E) of this section, including, but not limited to, 36794
any defense available under section 9.86 of the Revised Code. 36795

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(L) In addition to providing services to mentally ill, 36796
mentally retarded, or developmentally disabled persons, when a 36797
grant authorizing the provision of services to other individuals 36798
is accepted pursuant to division (F)(4) of this section, the legal 36799
rights service and its ombudsperson section may provide advocacy 36800
or ombudsperson services to those other individuals and exercise 36801
any other authority granted by this section or sections 5123.601 36802
to 5123.604 of the Revised Code on behalf of those individuals. 36803
Determinations of whether an individual is eligible for services 36804
under this division shall be made by the legal rights service. 36805

Sec. 5123.71. (A)(1) Proceedings for the involuntary 36806
institutionalization of a person pursuant to sections 5123.71 to 36807
5123.76 of the Revised Code shall be commenced by the filing of an 36808
affidavit with the probate division of the court of common pleas 36809
of the county where the person ~~person's is located~~ resides or 36810
where the person is institutionalized, in the manner and form 36811
prescribed by the department of mental retardation and 36812
developmental disabilities either on information or actual 36813
knowledge, whichever is determined to be proper by the court. The 36814
affidavit may be filed only by a person who has custody of the 36815
individual as a parent, guardian, or service provider or by a 36816
person acting on behalf of the department or a county board of 36817
mental retardation and developmental disabilities. This section 36818
does not apply regarding the institutionalization of a person 36819
pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the 36820
Revised Code. 36821

The affidavit shall contain an allegation setting forth the 36822
specific category or categories under division ~~(L)~~(P) of section 36823
5123.01 of the Revised Code upon which the commencement of 36824
proceedings is based and a statement of the factual ground for the 36825
belief that the person is a mentally retarded person subject to 36826
institutionalization by court order. Except as provided in 36827

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division (A)(2) of this section, the affidavit shall be 36828
accompanied by both of the following: 36829

(a) A comprehensive evaluation report prepared by the 36830
person's evaluation team that includes a statement by the members 36831
of the team certifying that they have performed a comprehensive 36832
evaluation of the person and that they are of the opinion that the 36833
person is a mentally retarded person subject to 36834
institutionalization by court order; 36835

(b) An assessment report prepared by the county board of 36836
mental retardation and developmental disabilities under section 36837
5123.711 of the Revised Code specifying that the individual is in 36838
need of services on an emergency or priority basis. 36839

(2) ~~A~~ In lieu of the comprehensive evaluation report, the 36840
affidavit may be accompanied by a written and sworn statement that 36841
the person or the guardian of a person adjudicated incompetent has 36842
refused to allow a comprehensive evaluation and county board 36843
assessment and assessment reports. Immediately after accepting an 36844
affidavit that is not accompanied by the reports of a 36845
comprehensive evaluation and county board assessment, the court 36846
shall cause a comprehensive evaluation and county board assessment 36847
of the person named in the affidavit to be performed. The 36848
evaluation shall be conducted in the least restrictive environment 36849
possible and the assessment shall be conducted in the same manner 36850
as assessments conducted under section 5123.711 of the Revised 36851
Code. The evaluation and assessment must be completed before a 36852
probable cause hearing or full hearing may be held under section 36853
5123.75 or 5123.76 of the Revised Code. 36854

A written report of the evaluation team's findings and the 36855
county board's assessment shall be filed with the court. The 36856
reports shall, consistent with the rules of evidence, be accepted 36857
as probative evidence in any proceeding under section 5123.75 or 36858
5123.76 of the Revised Code. If the counsel for the person who is 36859

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evaluated or assessed is known, the court shall send to the
counsel a copy of the reports as soon as possible after they are
filed and prior to any proceedings under section 5123.75 or
5123.76 of the Revised Code.

(B) ~~, if the division may the,,~~ Any person who is
involuntarily detained in an institution or otherwise is in
custody under this chapter shall be informed ~~the person~~ of the
right to do the following:

(1) Immediately make a reasonable number of telephone calls
or use other reasonable means to contact an attorney, a physician,
or both, to contact any other person or persons to secure
representation by counsel, or to obtain medical assistance, and be
provided assistance in making calls if the assistance is needed
and requested;

(2) Retain counsel and have independent expert evaluation
and, if the person is an indigent person, be represented by
court-appointed counsel and have independent expert evaluation at
court expense;

(3) Upon request, have a hearing to determine whether there
is probable cause to believe that the person is a mentally
retarded person subject to institutionalization by court order.

(C) No person who is being treated by spiritual means through
prayer alone in accordance with a recognized religious method of
healing may be ordered detained or involuntarily committed unless
the court has determined that the person represents a very
substantial risk of self-impairment, self-injury, or impairment or
injury to ~~self to~~ others.

Sec. 5123.76. (A) The full hearing shall be conducted in a
manner consistent with the procedures outlined in this chapter and
with due process of law. The hearing shall be held by a judge of

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the probate division or, upon transfer by the judge of the probate division, by another judge of the court of common pleas, or a referee designated by the judge of the probate division. Any referee designated by the judge of the probate division must be an attorney.

(1) The following shall be made available to counsel for the respondent:

(a) All relevant documents, information, and evidence in the custody or control of the state or prosecutor;

(b) All relevant documents, information, and evidence in the custody or control of the institution, facility, or program in which the respondent currently is held or in which the respondent has been held pursuant to these proceedings;

(c) With the consent of the respondent, all relevant documents, information, and evidence in the custody or control of any institution or person other than the state.

(2) The respondent has the right to be represented by counsel of the respondent's choice and has the right to attend the hearing except if unusual circumstances of compelling medical necessity exist that render the respondent unable to attend and the respondent has not expressed a desire to attend.

(3) If the respondent is not represented by counsel and the court determines that the conditions specified in division (A)(2) of this section justify the respondent's absence and the right to counsel has not been validly waived, the court shall appoint counsel forthwith to represent the respondent at the hearing, reserving the right to tax costs of appointed counsel to the respondent unless it is shown that the respondent is indigent. If the court appoints counsel, or if the court determines that the evidence relevant to the respondent's absence does not justify the absence, the court shall continue the case.

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(4) The respondent shall be informed of the right to retain 36921
counsel, to have independent expert evaluation, and, if an 36922
indigent person, to be represented by court appointed counsel and 36923
have expert independent evaluation at court expense. 36924

(5) The hearing may be closed to the public unless counsel 36925
for the respondent requests that the hearing be open to the 36926
public. 36927

(6) Unless objected to by the respondent, the respondent's 36928
counsel, or the designee of the director of mental retardation and 36929
developmental disabilities, the court, for good cause shown, may 36930
admit persons having a legitimate interest in the proceedings. 36931

(7) The affiant under section 5123.71 of the Revised Code 36932
shall be subject to subpoena by either party. 36933

(8) The court shall examine the sufficiency of all documents 36934
filed and shall inform the respondent, if present, and the 36935
respondent's counsel of the nature of the content of the documents 36936
and the reason for which the respondent is being held or for which 36937
the respondent's placement is being sought. 36938

(9) The court shall receive only relevant, competent, and 36939
material evidence. 36940

(10) The designee of the director shall present the evidence 36941
for the state. In proceedings under this chapter, the attorney 36942
general shall present the comprehensive evaluation, assessment, 36943
diagnosis, prognosis, record of habilitation and care, if any, and 36944
less restrictive habilitation plans, if any. The attorney general 36945
does not have a similar presentation responsibility in connection 36946
with a person who has been found not guilty by reason of insanity 36947
and who is the subject of a hearing under section 2945.40 of the 36948
Revised Code to determine whether the person is a mentally 36949
retarded person subject to institutionalization by court order. 36950

(11) The respondent has the right to testify and the 36951

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respondent or the respondent's counsel has the right to subpoena 36952
witnesses and documents and to present and cross-examine 36953
witnesses. 36954

(12) The respondent shall not be compelled to testify and 36955
shall be so advised by the court. 36956

(13) On motion of the respondent or the respondent's counsel 36957
for good cause shown, or upon the court's own motion, the court 36958
may order a continuance of the hearing. 36959

(14) To an extent not inconsistent with this chapter, the 36960
Rules of Civil Procedure shall be applicable. 36961

(B) Unless, upon completion of the hearing, the court finds 36962
by clear and convincing evidence that the respondent named in the 36963
affidavit is a mentally retarded person subject to 36964
institutionalization by court order, it shall order the 36965
respondent's discharge forthwith. 36966

(C) If, upon completion of the hearing, the court finds by 36967
clear and convincing evidence that the respondent is a mentally 36968
retarded person subject to institutionalization by court order, 36969
the court may order the respondent's discharge or order the 36970
respondent, for a period not to exceed ninety days, to any of the 36971
following: 36972

(1) A public institution, provided that commitment of the 36973
respondent to the institution will not cause the institution to 36974
exceed its licensed capacity determined in accordance with section 36975
5123.19 of the Revised Code and provided that such a placement is 36976
indicated by the comprehensive evaluation report filed pursuant to 36977
section 5123.71 of the Revised Code; 36978

(2) A private institution; 36979

(3) A county mental retardation program; 36980

(4) Receive private habilitation and care; 36981

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(5) Any other suitable facility, program, or the care of any person consistent with the comprehensive evaluation, assessment, diagnosis, prognosis, and habilitation needs of the respondent.

(D) Any order made pursuant to division (C)(2), (4), or (5) of this section shall be conditional upon the receipt by the court of consent by the facility, program, or person to accept the respondent.

(E) In determining the place to which, or the person with whom, the respondent is to be committed, the court shall consider the comprehensive evaluation, assessment, diagnosis, and projected habilitation plan for the respondent, and shall order the implementation of the least restrictive alternative available and consistent with habilitation goals.

(F) If, at any time it is determined by the director of the facility or program to which, or the person to whom, the respondent is committed that the respondent could be equally well habilitated in a less restrictive environment that is available, the following shall occur:

(1) The respondent shall be released by the director of the facility or program or by the person forthwith and referred to the court together with a report of the findings and recommendations of the facility, program, or person.

(2) The director of the facility or program or the person shall notify the respondent's counsel and the designee of the director of mental retardation and developmental disabilities.

(3) The court shall dismiss the case or order placement in the less restrictive environment.

(G)(1) Except as provided in divisions (G)(2) and (3) of this section, any person who has been committed under this section may apply at any time during the ninety-day period for voluntary admission to an institution under section 5123.69 of the Revised

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Code. Upon admission of a voluntary resident, the managing officer
immediately shall notify the court, the respondent's counsel, and
the designee of the director in writing of that fact by mail or
otherwise, and, upon receipt of the notice, the court shall
dismiss the case. ~~is admitted~~

(2) ~~admitted~~ A person who is found incompetent to stand trial
or not guilty by reason of insanity and who is committed pursuant
to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised
Code shall not be voluntarily admitted to an institution pursuant
to division (G)(1) of this section until after the termination of
the commitment, as described in division (J) of section 2945.401
of the Revised Code.

(H) If, at the end of any commitment period, the respondent
has not already been discharged or has not requested voluntary
admission status, the director of the facility or program, or the
person to whose care the respondent has been committed, shall
discharge the respondent forthwith, unless at least ten days
before the expiration of that period the designee of the director
of mental retardation and developmental disabilities or the
prosecutor files an application with the court requesting
continued commitment.

(1) An application for continued commitment shall include a
written report containing a current comprehensive evaluation and
assessment, a diagnosis, a prognosis, an account of progress and
past habilitation, and a description of alternative habilitation
settings and plans, including a habilitation setting that is the
least restrictive setting consistent with the need for
habilitation. A copy of the application shall be provided to
respondent's counsel. The requirements for notice under section
5123.73 of the Revised Code and the provisions of divisions (A) to
(E) of this section apply to all hearings on such applications.

(2) A hearing on the first application for continued

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commitment shall be held at the expiration of the first ninety-day 37045
period. The hearing shall be mandatory and may not be waived. 37046

(3) Subsequent periods of commitment not to exceed one 37047
hundred eighty days each may be ordered by the court if the 37048
designee of the director of mental retardation and developmental 37049
disabilities files an application for continued commitment, after 37050
a hearing is held on the application or without a hearing if no 37051
hearing is requested and no hearing required under division (H)(4) 37052
of this section is waived. Upon the application of a person 37053
involuntarily committed under this section, supported by an 37054
affidavit of a licensed physician alleging that the person is no 37055
longer a mentally retarded person subject to institutionalization 37056
by court order, the court for good cause shown may hold a full 37057
hearing on the person's continued commitment prior to the 37058
expiration of any subsequent period of commitment set by the 37059
court. 37060

(4) A mandatory hearing shall be held at least every two 37061
years after the initial commitment. 37062

(5) If the court, after a hearing upon a request to continue 37063
commitment, finds that the respondent is a mentally retarded 37064
person subject to institutionalization by court order, the court 37065
may make an order pursuant to divisions (C), (D), and (E) of this 37066
section. 37067

(I) Notwithstanding the provisions of division (H) of this 37068
section, no person who is found to be a mentally retarded person 37069
subject to institutionalization by court order pursuant to 37070
division ~~(L)~~(P)(2) of section 5123.01 of the Revised Code shall be 37071
held under involuntary commitment for more than five years. 37072

(J) The managing officer admitting a person pursuant to a 37073
judicial proceeding, within ten working days of the admission, 37074
shall make a report of the admission to the department. 37075

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Sec. 5126.01. As used in this chapter: 37077

(A) "Adult services" means a range of habilitation services 37078
 designed to meet the individual needs of persons who are eighteen 37079
 years of age or over and are not enrolled in a program or service 37080
 under Chapter 3323. of the Revised Code, and of persons sixteen 37081
 and seventeen years of age who are eligible under rules adopted by 37082
 the director of mental retardation and developmental disabilities 37083
 pursuant to Chapter 119. of the Revised Code. Such services may 37084
 include habilitation programs and services, sheltered employment 37085
 providing a structured work environment, job training, job 37086
 placement, supported employment, competitive employment, and 37087
 planned therapeutic and work activities providing meaningful tasks 37088
 designed to improve the effectiveness or degree with which an 37089
 individual meets the standards of personal independence and social 37090
 responsibility expected of the individual's age and cultural 37091
 group. 37092

(B) As used in this division, "substantial functional 37093
 limitation," "developmental delay," and "established risk" have 37094
 the meanings established pursuant to section 5123.011 of the 37095
 Revised Code. 37096

"Developmental disability" means a severe, chronic disability 37097
 that is characterized by all of the following: 37098

(1) It is attributable to a mental or physical impairment or 37099
 a combination of mental and physical impairments, other than a 37100
 mental or physical impairment solely caused by mental illness as 37101
 defined in division (A) of section 5122.01 of the Revised Code; 37102

(2) It is manifested before age twenty-two; 37103

(3) It is likely to continue indefinitely; 37104

(4) It results in one of the following: 37105

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- (a) In the case of a person under age three, at least one developmental delay or an established risk; 37106 37107
- (b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk; 37108 37109
- (c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: 37110 37111 37112 37113 37114 37115 37116
- self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.
- (5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person. 37117 37118 37119 37120
- (C) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not attained compulsory school age. 37121 37122 37123 37124
- (D) "Habilitation" means the process by which the staff of the facility or agency assists an individual with mental retardation or other developmental disability in acquiring and maintaining those life skills that enable the individual to cope more effectively with the demands of the individual's own person and environment, and in raising the level of the individual's personal, physical, mental, social, and vocational efficiency. Habilitation includes, but is not limited to, programs of formal, structured education and training. 37125 37126 37127 37128 37129 37130 37131 37132 37133
- (E) "Habilitation center services" means services provided by a habilitation center certified by the department of mental retardation and developmental disabilities under section 5123.041 37134 37135 37136

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of the Revised Code and covered by the medicaid program pursuant 37137
to rules adopted under section 5111.041 of the Revised Code. 37138

(F) "Home or community-based services" means medicaid-funded 37139
home or community-based services provided under a medicaid 37140
component the department of mental retardation and developmental 37141
disabilities administers pursuant to section 5111.871 of the 37142
Revised Code. 37143

(G) "Medicaid" has the same meaning as in section 5111.01 of 37144
the Revised Code. 37145

(H) "Medicaid case management services" means case management 37146
services provided to an individual with mental retardation or 37147
other developmental disability that the state medicaid plan 37148
requires. 37149

(I) "Mental retardation" means a mental impairment manifested 37150
during the developmental period characterized by significantly 37151
subaverage general intellectual functioning existing concurrently 37152
with deficiencies in the effectiveness or degree with which an 37153
individual meets the standards of personal independence and social 37154
responsibility expected of the individual's age and cultural 37155
group. 37156

~~(F)~~(J) "Residential services" means services to individuals 37157
with mental retardation or other developmental disabilities to 37158
provide housing, food, clothing, habilitation, staff support, and 37159
related support services necessary for the health, safety, and 37160
welfare of the individuals and the advancement of their quality of 37161
life. 37162

~~(G)~~(K) "Resources" means available capital and other assets, 37163
including moneys received from the federal, state, and local 37164
governments, private grants, and donations; appropriately 37165
qualified personnel; and appropriate capital facilities and 37166
equipment. 37167

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~~(H)~~(L) "Supportive home services" means a range of services 37168
to families of individuals with mental retardation or other 37169
developmental disabilities to develop and maintain increased 37170
acceptance and understanding of such persons, increased ability of 37171
family members to teach the person, better coordination between 37172
school and home, skills in performing specific therapeutic and 37173
management techniques, and ability to cope with specific 37174
situations. 37175

~~(I)~~(M) "Supported living" means services provided to an 37176
individual with mental retardation or other developmental 37177
disability through any public or private resources, including 37178
moneys from the individual, that enhance the individual's 37179
reputation in community life and advance the individual's quality 37180
of life by doing the following: 37181

(1) Providing the support necessary to enable an individual 37182
to live in a residence of the individual's choice and to choose to 37183
live alone, with any number of individuals who are not disabled, 37184
or with not more than three individuals with mental retardation 37185
and developmental disabilities unless the individuals are related 37186
by blood or marriage; 37187

(2) Encouraging the individual's participation in the 37188
community; 37189

(3) Promoting the individual's rights and autonomy; 37190

(4) Encouraging the increase of the individual's skills and 37191
competence. 37192

"Supported living" includes the provision of housing, food, 37193
clothing, habilitation, staff support, professional services, and 37194
any related support services necessary for the health, safety, and 37195
welfare of the individual receiving the services. 37196

Sec. 5126.042. (A) As used in this section: 37197

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

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

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

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

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

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

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

~~(3) "Priority" means any situation that would constitute an emergency except that action to resolve the situation may be taken in more than thirty but less than ninety days without creating a risk of substantial harm to self or others.~~

(B) If a county board of mental retardation and developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request programs and services and may be offered the programs and services, it shall establish waiting lists for services. The board may establish priorities for making placements on its waiting lists according to an individual's emergency ~~or priority~~ status

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and shall establish priorities in accordance with division (D) of 37228
this section. 37229

The individuals who may be placed on a waiting list include 37230
individuals with a need for services on an emergency ~~or priority~~ 37231
basis and individuals who have requested services for which 37232
resources are not available. 37233

~~An~~ Except for an individual who is to receive priority for 37234
services pursuant to division (D)(1)(d) of this section, an 37235
individual who currently receives a service but would like to 37236
change to another service shall not be placed on a waiting list 37237
but shall be placed on a service substitution waiting list. The 37238
board shall work with the individual, service providers, and all 37239
appropriate entities to facilitate the change in service as 37240
expeditiously as possible. The board may establish priorities for 37241
making placements on its service substitution waiting lists 37242
according to an individual's emergency ~~or priority~~ status. 37243

In addition to maintaining waiting lists and service 37244
substitution waiting lists, a board shall maintain a long-term 37245
service planning registry for individuals who wish to record their 37246
intention to request in the future a service they are not 37247
currently receiving. The purpose of the registry is to enable the 37248
board to document requests and to plan appropriately. The board 37249
may not place an individual on the registry who meets the 37250
conditions for receipt of services on an emergency ~~or priority~~ 37251
basis. 37252

(C) A county board shall establish a separate waiting list 37253
for each of the following categories of services, and may 37254
establish separate waiting lists within the waiting lists: 37255

(1) Early childhood services; 37256

(2) Educational programs for preschool and school age 37257
children; 37258

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(3) Adult services;	37259
(4) Case management services;	37260
(5) Residential services and supported living;	37261
(6) Transportation services;	37262
(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	37263 37264 37265
(8) Family support services provided under section 5126.11 of the Revised Code.	37266 37267
<u>(D)(1) In accordance with the county board's plan approved under section 5123.046 of the Revised Code and except as provided in division (D)(2) of this section, a county board shall give an individual who is eligible for home or community-based services and meets any of the following requirements priority over any other individual on a waiting list established under division (C) of this section other than an individual placed on the waiting list on an emergency status:</u>	37268 37269 37270 37271 37272 37273 37274 37275
<u>(a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caretaker who is sixty years of age or older;</u>	37276 37277 37278 37279
<u>(b) Is less than twenty-two years of age, does not receive residential services or supported living, resides in the home of the individual's family, and has at least one of the following:</u>	37280 37281 37282
<u>(i) Service needs that the county board determines are unusual in scope or intensity due to severe behavior problems for which a behavior support plan is needed;</u>	37283 37284 37285
<u>(ii) An emotional disorder for which anti-psychotic medication is needed;</u>	37286 37287

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<u>(iii) A medical condition that leaves the individual</u>	37288
<u>dependent on life-support medical technology;</u>	37289
<u>(iv) A condition affecting multiple body systems for which a</u>	37290
<u>combination of specialized medical, psychological, educational, or</u>	37291
<u>habilitation services are needed;</u>	37292
<u>(v) A condition the county board determines to be comparable</u>	37293
<u>in severity to any condition described in division (D)(1)(b)(i) to</u>	37294
<u>(iv) of this section and places the individual at significant risk</u>	37295
<u>of institutionalization.</u>	37296
<u>(c) Is twenty-two years of age or older and is determined by</u>	37297
<u>the county board to have intensive needs for residential services</u>	37298
<u>on an in-home or out-of-home basis;</u>	37299
<u>(d) Resides in an intermediate care facility for the mentally</u>	37300
<u>retarded or nursing facility and chooses to move to another</u>	37301
<u>setting.</u>	37302
<u>(2) No more than two hundred individuals in the state may</u>	37303
<u>receive priority for services during state fiscal years 2002 and</u>	37304
<u>2003 pursuant to division (D)(1)(b) of this section. No more than</u>	37305
<u>seventy-five individuals in the state may receive priority for</u>	37306
<u>services during state fiscal years 2002 and 2003 pursuant to</u>	37307
<u>division (D)(1)(d) of this section.</u>	37308
<u>(E) Prior to establishing any waiting list under this</u>	37309
<u>section, a county board shall develop and implement a policy for</u>	37310
<u>waiting lists that complies with <u>this section and</u> rules that the</u>	37311
<u>department of mental retardation and developmental disabilities</u>	37312
<u>shall adopt in accordance with Chapter 119. of the Revised Code.</u>	37313
<u>The department's rules shall include procedures to be followed to</u>	37314
<u>ensure that the due process rights of individuals placed on</u>	37315
<u>waiting lists are not violated.</u>	37316
<u>Prior to placing an individual on a waiting list, the county</u>	37317
<u>board shall assess the service needs of the individual in</u>	37318

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accordance with all applicable state and federal laws. The county
board shall place the individual on the appropriate waiting list
and may place the individual on more than one waiting list.

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

When a program or service for which there is a waiting list
becomes available, the county board shall reassess the service
needs of the individual next scheduled on the waiting list to
receive that program or service. If the reassessment demonstrates
that the individual continues to need the program or service, the
board shall offer the program or service to the individual. If it
determines that an individual no longer needs a program or
service, the county board shall remove the individual from the
waiting list. If it determines that an individual needs a program
or service other than the one for which the individual is on the
waiting list, the county board shall provide the program or
service to the individual or place the individual on a waiting
list for the program or service in accordance with the board's
policy for waiting lists.

~~(E)(F)~~ A child subject to a determination made pursuant to
section 121.38 of the Revised Code who requires the home ~~and or~~
community-based services provided through the ~~medical assistance~~
~~waiver programs operated~~ medicaid component that the department of
mental retardation and developmental disabilities administers

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under ~~sections 5111.87 and 5111.88~~ section 5111.871 of the Revised Code shall receive services through ~~the waiver programs adopted under Chapters 5111., 5123., and 5126. of the Revised Code 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.

~~(F)~~(G) 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.

~~(G)~~(H) The following shall take precedence over the applicable provisions of this section:

(1) Medicaid rules and regulations;

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

Sec. 5126.046. For the purpose of obtaining additional federal medicaid funds for home or community-based services, medicaid case management services, and habilitation center services, a county board of mental retardation and developmental disabilities may do both of the following:

(A) Transfer an individual with mental retardation or other developmental disability who meets all of the following requirements to home or community-based services that include supported living or family support services:

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

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<u>(2) Receives supported living or family support services;</u>	37381
<u>(3) Is eligible for the home or community-based services.</u>	37382
<u>(B) Transfer an individual with mental retardation or other</u>	37383
<u>developmental disability who meets all of the following</u>	37384
<u>requirements to home or community-based services that include</u>	37385
<u>adult services:</u>	37386
<u>(1) Receives adult services;</u>	37387
<u>(2) Resides in the individual's own home or the home of the</u>	37388
<u>individual's family and will continue to reside in that home after</u>	37389
<u>the transfer;</u>	37390
<u>(3) Is eligible for the home or community-based services.</u>	37391
 <u>Sec. 5126.047. (A) Each county board of mental retardation</u>	37392
<u>and developmental disabilities that has local administrative</u>	37393
<u>authority under division (A) of section 5126.055 of the Revised</u>	37394
<u>Code for habilitation, vocational, or community employment</u>	37395
<u>services provided as part of home or community-based services</u>	37396
<u>shall create a list of all persons and government entities</u>	37397
<u>eligible to provide such habilitation, vocational, or community</u>	37398
<u>employment services. If the county board chooses and is eligible</u>	37399
<u>to provide such habilitation, vocational, or community employment</u>	37400
<u>services, the county board shall include itself on the list. The</u>	37401
<u>county board shall make the list available to each individual with</u>	37402
<u>mental retardation or other developmental disability who resides</u>	37403
<u>in the county and is eligible for such habilitation, vocational,</u>	37404
<u>or community employment services. The county board shall also make</u>	37405
<u>the list available to such individuals' families.</u>	37406
 <u>An individual with mental retardation or other developmental</u>	37407
<u>disability who is eligible for habilitation, vocational, or</u>	37408
<u>community employment services may choose the provider of the</u>	37409
<u>services.</u>	37410

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If a county board has local administrative authority under 37411
division (A) of section 5126.055 of the Revised Code for 37412
habilitation, vocational, and community employment services 37413
provided as part of home or community-based services, the county 37414
board shall pay the nonfederal share of the habilitation, 37415
vocational, and community employment services when required by 37416
section 5126.056 of the Revised Code. The department of mental 37417
retardation and developmental disabilities shall pay the 37418
nonfederal share of such habilitation, vocational, and community 37419
employment services when required by section 5123.047 of the 37420
Revised Code. 37421

(B) Each month, the department of mental retardation and 37422
developmental disabilities shall create a list of all persons and 37423
government entities eligible to provide residential services and 37424
supported living. The department shall include on the list all 37425
residential facilities licensed under section 5123.19 of the 37426
Revised Code and all supported living providers certified under 37427
section 5126.431 of the Revised Code. The department shall 37428
distribute the monthly lists to county boards that have local 37429
administrative authority under division (A) of section 5126.055 of 37430
the Revised Code for residential services and supported living 37431
provided as part of home or community-based services. A county 37432
board that receives a list shall make it available to each 37433
individual with mental retardation or other developmental 37434
disability who resides in the county and is eligible for such 37435
residential services or supported living. The county board shall 37436
also make the list available to the families of those individuals. 37437

An individual who is eligible for residential services or 37438
supported living may choose the provider of the residential 37439
services or supported living. 37440

If a county board has local administrative authority under 37441
division (A) of section 5126.055 of the Revised Code for 37442

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residential services and supported living provided as part of home 37443
or community-based services, the county board shall pay the 37444
nonfederal share of the residential services and supported living 37445
when required by section 5126.056 of the Revised Code. The 37446
department shall pay the nonfederal share of the residential 37447
services and supported living when required by section 5123.047 of 37448
the Revised Code. 37449

(C) If a county board that has local administrative authority 37450
under division (A) of section 5126.055 of the Revised Code for 37451
home or community-based services violates the right established by 37452
this section of an individual to choose a provider that is 37453
qualified and willing to provide services to the individual, the 37454
individual shall receive timely notice that the individual may 37455
request a hearing under section 5101.35 of the Revised Code. 37456
37457

(D) The departments of mental retardation and developmental 37458
disabilities and job and family services shall adopt rules in 37459
accordance with Chapter 119. of the Revised Code governing the 37460
implementation of this section. The rules shall include procedures 37461
for individuals to choose their service providers. The rules shall 37462
not be limited by a provider selection system established under 37463
section 5126.42 of the Revised Code, including any pool of 37464
providers created pursuant to a provider selection system. 37465
37466

Sec. 5126.05. (A) Subject to the rules established by the 37467
director of mental retardation and developmental disabilities 37468
pursuant to Chapter 119. of the Revised Code for programs and 37469
services offered pursuant to this chapter, and subject to the 37470
rules established by the state board of education pursuant to 37471
Chapter 119. of the Revised Code for programs and services offered 37472
pursuant to Chapter 3323. of the Revised Code, the county board of 37473
mental retardation and developmental disabilities shall: 37474

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(1) Administer and operate facilities, programs, and services as provided by this chapter and Chapter 3323. of the Revised Code and establish policies for their administration and operation;	37475 37476 37477 37478
(2) Coordinate, monitor, and evaluate existing services and facilities available to individuals with mental retardation and developmental disabilities;	37479 37480 37481
(3) Provide early childhood services, supportive home services, and adult services, according to the plan and priorities developed under section 5126.04 of the Revised Code;	37482 37483 37484
(4) Provide or contract for special education services pursuant to Chapters 3317. and 3323. of the Revised Code and ensure that related services, as defined in section 3323.01 of the Revised Code, are available according to the plan and priorities developed under section 5126.04 of the Revised Code;	37485 37486 37487 37488 37489
(5) Adopt a budget, authorize expenditures for the purposes specified in this chapter and do so in accordance with section 319.16 of the Revised Code, approve attendance of board members and employees at professional meetings and approve expenditures for attendance, and exercise such powers and duties as are prescribed by the director;	37490 37491 37492 37493 37494 37495
(6) Submit annual reports of its work and expenditures, pursuant to sections 3323.09 and 5126.12 of the Revised Code, to the director, the superintendent of public instruction, and the board of county commissioners at the close of the fiscal year and at such other times as may reasonably be requested;	37496 37497 37498 37499 37500
(7) Authorize all positions of employment, establish compensation, including but not limited to salary schedules and fringe benefits for all board employees, approve contracts of employment for management employees that are for a term of more than one year, employ legal counsel under section 309.10 of the	37501 37502 37503 37504 37505

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Revised Code, and contract for employee benefits; 37506

(8) Provide case management services, as defined in rules 37507
adopted by the director of mental retardation and developmental 37508
disabilities, in accordance with section 5126.15 of the Revised 37509
Code; 37510

(9) Certify respite care homes pursuant to rules adopted 37511
under section 5123.171 of the Revised Code by the director of 37512
mental retardation and developmental disabilities. 37513

(B) To the extent that rules adopted under this section apply 37514
to the identification and placement of handicapped children under 37515
Chapter 3323. of the Revised Code, they shall be consistent with 37516
the standards and procedures established under sections 3323.03 to 37517
3323.05 of the Revised Code. 37518

(C) Any county board may enter into contracts with other such 37519
boards and with public or private, nonprofit, or profit-making 37520
agencies or organizations of the same or another county, to 37521
provide the facilities, programs, and services authorized or 37522
required, upon such terms as may be agreeable, and in accordance 37523
with this chapter and Chapter 3323. of the Revised Code and rules 37524
adopted thereunder and in accordance with sections 307.86 and 37525
5126.071 of the Revised Code. 37526

(D) A county board may combine transportation for children 37527
and adults enrolled in programs and services offered under section 37528
5126.12 with transportation for children enrolled in classes 37529
funded under section 3317.20 or units approved under section 37530
3317.05 of the Revised Code. 37531

(E) A county board may purchase all necessary insurance 37532
policies, may purchase equipment and supplies through the 37533
department of administrative services or from other sources, and 37534
may enter into agreements with public agencies or nonprofit 37535
organizations for cooperative purchasing arrangements. 37536

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(F) A county board may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established and hold, apply, and dispose of the moneys, lands, and property according to the terms of the gift, grant, devise, or bequest. All money received by gift, grant, bequest, or disposition of lands or property received by gift, grant, devise, or bequest shall be deposited in the county treasury to the credit of such board and shall be available for use by the board for purposes determined or stated by the donor or grantor, but may not be used for personal expenses of the board members. Any interest or earnings accruing from such gift, grant, devise, or bequest shall be treated in the same manner and subject to the same provisions as such gift, grant, devise, or bequest.

(G) The board of county commissioners shall levy taxes and make appropriations sufficient to enable the county board of mental retardation and developmental disabilities to perform its functions and duties, and may utilize any available local, state, and federal funds for such purpose.

Sec. 5126.051. (A) To the extent that resources are available, a county board of mental retardation and developmental disabilities ~~may~~ shall provide for or arrange residential services and supported living for individuals with mental retardation and developmental disabilities.

A county board may acquire, convey, lease, or sell property for residential services and supported living and enter into loan agreements, including mortgages, for the acquisition of such property. A county board is not required to comply with provisions of Chapter 307. of the Revised Code providing for competitive bidding or sheriff sales in the acquisition, lease, conveyance, or sale of property under this division, but the acquisition, lease,

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conveyance, or sale must be at fair market value determined by
appraisal of one or more disinterested persons appointed by the
board.

Any action taken by a county board under this division that
will incur debt on the part of the county shall be taken in
accordance with Chapter 133. of the Revised Code. A county board
shall not incur any debt on the part of the county without the
prior approval of the board of county commissioners.

(B)(1) To the extent that resources are available, in
addition to sheltered employment and work activities provided as
adult services pursuant to division (A)(3) of section 5126.05 of
the Revised Code, a county board of mental retardation and
developmental disabilities may provide or arrange for job
training, vocational evaluation, and community employment services
to mentally retarded and developmentally disabled individuals who
are age eighteen and older and not enrolled in a program or
service under Chapter 3323. of the Revised Code or age sixteen or
seventeen and eligible for adult services under rules adopted by
the director of mental retardation and developmental disabilities
under Chapter 119. of the Revised Code. These services shall be
provided in accordance with the individual's individual service or
habilitation plan and shall include support services specified in
the plan.

(2) A county board may, in cooperation with the Ohio
rehabilitation services commission, seek federal funds for job
training and community employment.

(3) A county board may contract with any agency, board, or
other entity that is accredited by the commission on accreditation
of rehabilitation facilities to provide services. A county board
that is accredited by the commission on accreditation of
rehabilitation facilities may provide services for which it is
certified by the commission.

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(C) To the extent that resources are available, a county board may provide services to an individual with mental retardation or other developmental disability in addition to those provided pursuant to this section, section 5126.05 of the Revised Code, or any other section of this chapter. The services shall be provided in accordance with the individual's habilitation or service plan and may be provided in collaboration with other entities of state or local government.

Sec. 5126.054. (A) Each county board of mental retardation and developmental disabilities shall, by resolution, develop a three-calendar year plan that includes all of the following components:

(1) An assessment component that includes all of the following:

(a) The number of individuals with mental retardation or other developmental disability residing in the county who need medicaid case management services and habilitation center services;

(b) The number of individuals with mental retardation or other developmental disability residing in the county who need the level of care provided by an intermediate care facility for the mentally retarded and may seek home or community-based services, the service needs of those individuals, and the projected annualized cost for services;

(c) 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 of the Revised Code to pay;

(d) Any other applicable information or conditions that the department of mental retardation and developmental disabilities

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requires as a condition of approving the plan under section 37630
5123.046 of the Revised Code. 37631

(2) A component that provides for the recruitment, training, 37632
and retention of the direct care staff necessary to implement 37633
services included in individualized service plans, including 37634
behavior management services and health management services such 37635
as delegated nursing and other habilitation services, and protect 37636
the health and welfare of individuals receiving services included 37637
in the individual's individualized service plan by complying with 37638
safeguards for unusual and major unusual incidents, day-to-day 37639
program management, and other requirements the department shall 37640
identify. A county board shall develop this component in 37641
collaboration with providers of medicaid-funded services with 37642
which the county board contracts. A county board shall include all 37643
of the following in the component: 37644

(a) The source and amount of funds available for the 37645
component; 37646

(b) A plan and timeline for implementing the component with 37647
the medicaid providers under contract with the county board; 37648

(c) The mechanisms the county board shall use to ensure the 37649
financial and program accountability of the medicaid provider's 37650
implementation of the component. 37651

(3) A component that provides for the implementation of 37652
habilitation center services, medicaid case management services, 37653
and home or community-based services. A county board shall include 37654
all of the following in the component: 37655

(a) If the department of mental retardation and developmental 37656
disabilities or department of job and family services requires, an 37657
agreement to pay the nonfederal share of medicaid expenditures 37658
that the county board is required by division (A) of section 37659
5126.056 of the Revised Code to pay; 37660

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(b) How the services are to be phased in over the period the plan covers, including how the county board will make transfers under section 5126.046 of the Revised Code and serve individuals on a waiting list established under division (C) of section 5126.042 who are given priority status under division (D) of that section;

(c) Any agreement or commitment regarding the county board's funding of home or community-based services that the county board has with the department at the time the county board develops the component;

(d) Assurances adequate to the department that the county board will comply with all of the following requirements:

(i) To use any additional funds the county board receives for the services to improve the county board's resource capabilities for supporting such services available in the county at the time the component is developed and to expand the services to accommodate the unmet need for those services in the county;

(ii) To employ a business manager who is either a new employee who has earned at least a bachelor's degree in business administration or a current employee who has the equivalent experience of a bachelor's degree in business administration. If the county board will employ a new employee, the county board shall include in the component a timeline for employing the employee.

(iii) To employ a medicaid services manager who is either a new employee who has earned at least a bachelor's degree or a current employee who has the equivalent experience of a bachelor's degree. If the county board will employ a new employee, the county board shall include in the component a timeline for employing the employee.

(e) An agreement to comply with the method, developed under

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section 5123.0413 of the Revised Code in consultation with the 37692
department and the department of job and family services, of 37693
paying for extraordinary costs, including extraordinary costs for 37694
services to individuals with mental retardation or other 37695
developmental disability, and ensuring the availability of 37696
adequate funds in the event a county property tax levy for 37697
services for individuals with mental retardation or other 37698
developmental disability fails; 37699

(f) Programmatic and financial outcomes expected from the 37700
implementation of the plan; 37701

(g) Any other applicable information or conditions that the 37702
department requires as a condition of approving the plan under 37703
section 5123.046 of the Revised Code. 37704

(B) For the purpose of obtaining the department's approval 37705
under section 5123.046 of the Revised Code of the plan the county 37706
board develops under division (A) of this section, a county board 37707
shall do both of the following: 37708

(1) Submit the components required by divisions (A)(1) and 37709
(2) of this section to the department not later than July 15, 37710
2001; 37711

(2) Submit the component required by division (A)(3) of this 37712
section to the department not later than October 1, 2001. 37713

(C) A county board whose plan developed under division (A) of 37714
this section is approved by the department under section 5123.046 37715
of the Revised Code shall update and renew the plan in accordance 37716
with a schedule the department shall develop. 37717

Sec. 5126.055. (A) Except as provided in division (G) of this 37718
section, a county board of mental retardation and developmental 37719
disabilities with an approved plan under section 5123.046 of the 37720
Revised Code has local administrative authority to do all of the 37721

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following for an individual with mental retardation or other 37722
developmental disability who resides in the county that the county 37723
board serves and seeks or receives home or community-based 37724
services: 37725

(1) Perform assessments and evaluations of the individual. As 37726
part of the assessment and evaluation process, the county board 37727
shall do all of the following: 37728

(a) Make a recommendation to the department of mental 37729
retardation and developmental disabilities on whether the 37730
department should approve or deny the individual's application for 37731
the services, including on the basis of whether the individual 37732
needs the level of care an intermediate care facility for the 37733
mentally retarded provides; 37734

(b) If the individual's application is denied because of the 37735
county board's recommendation and the individual requests a 37736
hearing under section 5101.35 of the Revised Code, present, with 37737
the department of mental retardation and developmental 37738
disabilities or department of job and family services, whichever 37739
denies the application, the reasons for the recommendation and 37740
denial at the hearing; 37741

(c) If the individual's application is approved, recommend to 37742
the departments of mental retardation and developmental 37743
disabilities and job and family services the services that should 37744
be included in the individual's individualized service plan and, 37745
if either department reduces, denies, or terminates a service 37746
included in the individual's individualized service plan under 37747
section 5111.871 of the Revised Code because of the county board's 37748
recommendation, present, with the department that made the 37749
reduction, denial, or termination, the reasons for the 37750
recommendation and reduction, denial, or termination at a hearing 37751
under section 5101.35 of the Revised Code. 37752

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(2) In accordance with the rules adopted under section 5126.047 of the Revised Code, perform the county board's duties under that section regarding assisting the individual's right to choose a qualified and willing provider of the services and, at a hearing under section 5101.35 of the Revised Code, present evidence of the process for appropriate assistance in choosing providers; 37753 37754 37755 37756 37757 37758 37759

(3) Unless the county board provides the services under division (A)(4) of this section, contract with the person or government entity the individual chooses in accordance with section 5126.047 of the Revised Code to provide the services if the person or government entity is qualified and agrees to provide the services. The contract shall require the provider to agree to furnish, in accordance with the provider's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires. 37760 37761 37762 37763 37764 37765 37766 37767 37768

(4) If the county board is accredited under section 5126.081 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires; 37769 37770 37771 37772 37773 37774 37775

(5) Monitor the services provided to the individual and ensure the individual's health, safety, and welfare. The monitoring shall include quality assurance activities. If the county board provides the services, the department of mental retardation and developmental disabilities shall also monitor the services. 37776 37777 37778 37779 37780 37781

(B) Except as provided in division (G) of this section, a county board with an approved plan under section 5123.046 of the Revised Code has local administrative authority to do all of the 37782 37783 37784

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following for an individual with mental retardation or other 37785
developmental disability who resides in the county that the county 37786
board serves and seeks or receives medicaid case management 37787
services or habilitation center services, other than habilitation 37788
center services for which a school district is required by 37789
division (E) of section 5111.041 of the Revised Code to pay the 37790
nonfederal share: 37791

(1) Perform assessments and evaluations of the individual for 37792
the purpose of recommending to the departments of mental 37793
retardation and developmental disabilities and job and family 37794
services the services that should be included in the individual's 37795
individualized service plan; 37796

(2) If the department of mental retardation and developmental 37797
disabilities or department of job and family services reduces, 37798
denies, or terminates a service included in the individual's 37799
individualized service plan under section 5111.041 or 5111.042 of 37800
the Revised Code because of the county board's recommendation 37801
under division (B)(1) of this section, present, with the 37802
department that made the reduction, denial, or termination, the 37803
reasons for the recommendation and reduction, denial, or 37804
termination at a hearing under section 5101.35 of the Revised Code 37805
and inform the individual that the individual may file a complaint 37806
with the county board under section 5126.06 of the Revised Code at 37807
the same time the individual pursues an appeal under section 37808
5101.35 of the Revised Code; 37809

(3) In accordance with rules the departments of mental 37810
retardation and developmental disabilities and job and family 37811
services shall adopt in accordance with Chapter 119. of the 37812
Revised Code governing the process for individuals to choose 37813
providers of medicaid case management services and habilitation 37814
center services, assist the individual in choosing the provider of 37815
the services. The rules shall provide for both of the following: 37816

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(a) The county board providing the individual up-to-date 37817
information about qualified providers that the department of 37818
mental retardation and developmental disabilities shall make 37819
available to the county board; 37820

(b) If the individual chooses a provider who is qualified and 37821
willing to provide the services but is denied that provider, the 37822
individual receiving timely notice that the individual may request 37823
a hearing under section 5101.35 of the Revised Code and, at the 37824
hearing, the county board presenting evidence of the process for 37825
appropriate assistance in choosing providers. 37826

(4) Unless the county board provides the services under 37827
division (B)(5) of this section, contract with the person or 37828
government entity that the individual chooses in accordance with 37829
the rules adopted under division (B)(3) of this section to provide 37830
the services if the person or government entity is qualified and 37831
agrees to provide the services. The contract shall require the 37832
provider to agree to furnish, in accordance with the provider's 37833
medicaid provider agreement and for the authorized reimbursement 37834
rate, the services the individual requires. 37835

(5) If the county board is accredited under section 5126.081 37836
of the Revised Code to provide the services and agrees to provide 37837
the services to the individual and the individual chooses the 37838
county board to provide the services, furnish, in accordance with 37839
the county board's medicaid provider agreement and for the 37840
authorized reimbursement rate, the services the individual 37841
requires; 37842

(6) Monitor the services provided to the individual. The 37843
monitoring shall include quality assurance activities. If the 37844
county board provides the services, the department of mental 37845
retardation and developmental disabilities shall also monitor the 37846
services. 37847

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(C) A county board shall perform its local administrative authority under this section in accordance with all of the following: 37848
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(1) The county board's plan that the department of mental retardation and developmental disabilities approves under section 5123.046 of the Revised Code; 37851
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37853

(2) All applicable federal and state laws; 37854

(3) All applicable policies of the departments of mental retardation and developmental disabilities and job and family services and the United States department of health and human services; 37855
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37858

(4) The department of job and family services' supervision under its authority under section 5111.01 of the Revised Code to act as the single state medicaid agency; 37859
37860
37861

(5) The department of mental retardation and developmental disabilities' oversight. 37862
37863

(D) The departments of mental retardation and developmental disabilities and job and family services shall communicate with and provide training to county boards regarding local administrative authority granted by this section. The communication and training shall include issues regarding audit protocols and other standards established by the United States department of health and human services that the departments determine appropriate for communication and training. County boards shall participate in the training. The departments shall assess the county board's compliance against uniform standards that the departments shall establish. 37864
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(E) A county board may not delegate its local administrative authority granted under this section but may contract with a person or government entity, including a council of governments, for assistance with its local administrative authority. A county 37875
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board that enters into such a contract shall notify the director 37879
of mental retardation and developmental disabilities. The notice 37880
shall include the tasks and responsibilities that the contract 37881
gives to the person or government entity. The person or government 37882
entity shall comply in full with all requirements to which the 37883
county board is subject regarding the person or government 37884
entity's tasks and responsibilities under the contract. The county 37885
remains ultimately responsible for the tasks and responsibilities. 37886
37887

(F) A county board that has local administrative authority 37888
under this section shall, through the departments of mental 37889
retardation and developmental disabilities and job and family 37890
services, reply to, and cooperate in arranging compliance with, a 37891
program or fiscal audit or program violation exception that a 37892
state or federal audit or review discovers. The department of job 37893
and family services shall timely notify the department of mental 37894
retardation and developmental disabilities and the county board of 37895
any adverse findings. After receiving the notice, the county 37896
board, in conjunction with the department of mental retardation 37897
and developmental disabilities, shall cooperate fully with the 37898
department of job and family services and timely prepare and send 37899
to the department a written plan of correction or response to the 37900
adverse findings. The county board is liable for any adverse 37901
findings that result from an action it takes or fails to take in 37902
its implementation of local administrative authority. 37903

(G)(1) If the department of mental retardation and 37904
developmental disabilities or department of job and family 37905
services determines that a county board's implementation of its 37906
local administrative authority under this section is deficient, 37907
the department that makes the determination shall require that 37908
county board do the following: 37909

(a) If the deficiency affects the health, safety, or welfare 37910

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of an individual with mental retardation or other developmental 37911
disability, correct the deficiency within twenty-four hours; 37912
37913

(b) If the deficiency does not affect the health, safety, or 37914
welfare of an individual with mental retardation or other 37915
developmental disability, submit a plan of correction to the 37916
department that is acceptable to the department within sixty days 37917
and correct the deficiency within the time required by the plan of 37918
correction. 37919

(2) If the county board fails to correct a deficiency within 37920
the time required by division (G)(1) of this section to the 37921
satisfaction of the department, or submit an acceptable plan of 37922
correction within the time required by division (G)(1)(b) of this 37923
section, the department shall do one of the following until the 37924
county board's local administrative authority is restored under 37925
division (G)(3) of this section: 37926

(a) Assign the county board's local administrative authority 37927
to one or more other county boards or a regional council 37928
established under section 5126.13 of the Revised Code; 37929

(b) Contract with a person or government entity that provides 37930
management services but not medicaid-funded services to perform 37931
the local administrative authority. 37932

(3) If the department takes action under division (G)(2) of 37933
this section, the department of mental retardation and 37934
developmental disabilities shall closely monitor all aspects of 37935
the county board's implementation of a plan of correction. The 37936
department shall restore the county board's local administrative 37937
authority when the department is satisfied that the county board 37938
has successfully implemented all parts of the plan of correction 37939
and is capable of adhering to medicaid standards. 37940

Sec. 5126.056. (A) A county board of mental retardation and 37941

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developmental disabilities that has local administrative authority 37942
under division (A) of section 5126.055 of the Revised Code for 37943
home or community-based services shall pay the nonfederal share of 37944
medicaid expenditures for such services provided to an individual 37945
with mental retardation or other developmental disability who the 37946
county board determines under section 5126.041 of the Revised Code 37947
is eligible for county board services. 37948

A county board that has local administrative authority under 37949
division (B) of section 5126.055 of the Revised Code for medicaid 37950
case management services shall pay the nonfederal share of 37951
medicaid expenditures for such services provided to an individual 37952
with mental retardation or other developmental disability who the 37953
county board determines under section 5126.041 of the Revised Code 37954
is eligible for county board services unless division (B)(2) of 37955
section 5123.047 of the Revised Code requires the department of 37956
mental retardation and developmental disabilities to pay the 37957
nonfederal share. 37958

A county board shall pay the nonfederal share of medicaid 37959
expenditures for habilitation center services when required to do 37960
so by division (D) of section 5111.041 of the Revised Code. 37961

(B) A county board may use the following funds to pay the 37962
nonfederal share of the services that the county board is required 37963
by division (A) of this section to pay: 37964

(1) To the extent consistent with the levy that generated the 37965
taxes, the following taxes: 37966

(a) Taxes levied pursuant to division (L) of section 5705.19 37967
of the Revised Code and section 5705.222 of the Revised Code; 37968

(b) Taxes levied under section 5705.191 of the Revised Code 37969
that the board of county commissioners allocates to the county 37970
board to pay the nonfederal share of the services. 37971

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

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

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

(C) If by December 31, 2001, the United States secretary of health and human services allows for at least five hundred additional individuals to receive home or community-based services, each county board shall provide, by the last day of each calendar year, assurances to the department of mental retardation and developmental disabilities that the county board will have the following amount available to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay:

(1) For calendar year 2003, at least one-third of the value of one-half, effective mill levied in the county the preceding year;

(2) For calendar year 2004, at least two-thirds of the value of one-half, effective mill levied in the county the preceding year;

(3) For calendar year 2005 and each calendar year thereafter, at least the value of one-half, effective mill levied in the county the preceding year.

(D) Each year, each county board shall adopt a resolution specifying the amount of funds it will use in the next year to pay the nonfederal share of the services that the county board is

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required by division (A) of this section to pay. The amount 38003
specified shall be adequate to assure that the services will be 38004
available in the county in a manner that conforms to all 38005
applicable state and federal laws. A county board shall state in 38006
its resolution that the payment of the nonfederal share represents 38007
an ongoing financial commitment of the county board. A county 38008
board shall adopt the resolution in time for the county auditor to 38009
make the determination required by division (E) of this section. 38010

(E) Each year, a county auditor shall determine whether the 38011
amount of funds a county board specifies in the resolution it 38012
adopts under division (D) of this section will be available in the 38013
following year for the county board to pay the nonfederal share of 38014
the services that the county board is required by division (A) of 38015
this section to pay. The county auditor shall make the 38016
determination not later than the last day of the year before the 38017
year in which the funds are to be used. 38018

Sec. 5126.12. (A) As used in this section: 38019

(1) "Approved school age ~~unit~~ class" means a class ~~or unit~~ 38020
operated by a county board of mental retardation and developmental 38021
disabilities and ~~approved~~ funded by the ~~state board~~ department of 38022
education under ~~division (D) of section 3317.05~~ 3317.20 of the 38023
Revised Code. 38024

(2) "Approved preschool unit" means a class or unit operated 38025
by a county board of mental retardation and developmental 38026
disabilities and approved by the state board of education under 38027
division (B) of section 3317.05 of the Revised Code. 38028

(3) "Active treatment" means a continuous treatment program, 38029
which includes aggressive, consistent implementation of a program 38030
of specialized and generic training, treatment, health services, 38031
and related services, that is directed toward the acquisition of 38032
behaviors necessary for an individual with mental retardation or 38033

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other developmental disability to function with as much 38034
self-determination and independence as possible and toward the 38035
prevention of deceleration, regression, or loss of current optimal 38036
functional status. 38037

(4) "Eligible for active treatment" means that an individual 38038
with mental retardation or other developmental disability resides 38039
in an intermediate care facility for the mentally retarded 38040
certified under Title XIX of the "Social Security Act," 49 Stat. 38041
620 (1935), 42 U.S.C. 301, as amended; resides in a state 38042
institution operated by the department of mental retardation and 38043
developmental disabilities; or is enrolled in a home and 38044
community-based services waiver program administered by the 38045
department of mental retardation and developmental disabilities as 38046
part of the medical assistance program established under section 38047
5111.01 of the Revised Code. 38048

(5) "Community alternative funding system" means the program 38049
under which habilitation center services are reimbursed under the 38050
~~medical assistance~~ medicaid program pursuant to section 5111.041 38051
of the Revised Code and rules adopted under that section. 38052

(6) "Community employment program" means community employment 38053
services provided outside of a sheltered workshop setting under 38054
which the person earns competitive wages for the performance of 38055
work. 38056

(7) "Traditional adult services" means vocational and 38057
nonvocational activities conducted within a sheltered workshop or 38058
adult activity center or supportive home services. 38059

(B) Each county board of mental retardation and developmental 38060
disabilities shall certify to the director of mental retardation 38061
and developmental disabilities all of the following: 38062

(1) On or before the fifteenth day of October, the average 38063
daily membership for the first full week of programs and services 38064

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during October receiving:	38065
(a) Early childhood services provided pursuant to section	38066
5126.05 of the Revised Code for children who are less than three	38067
years of age on the thirtieth day of September of the academic	38068
year;	38069
(b) Special education for handicapped children in approved	38070
school age units <u>classes</u> ;	38071
(c) Adult services for persons sixteen years of age and older	38072
operated pursuant to section 5126.05 and division (B) of section	38073
5126.051 of the Revised Code. Separate counts shall be made for	38074
the following:	38075
(i) Persons enrolled in traditional adult services who are	38076
eligible for but not enrolled in active treatment under the	38077
community alternative funding system;	38078
(ii) Persons enrolled in traditional adult services who are	38079
eligible for and enrolled in active treatment under the community	38080
alternative funding system;	38081
(iii) Persons enrolled in traditional adult services but who	38082
are not eligible for active treatment under the community	38083
alternative funding system;	38084
(iv) Persons participating in community employment services.	38085
To be counted as participating in community employment services, a	38086
person must have spent an average of no less than ten hours per	38087
week in that employment during the preceding six months.	38088
(d) Other programs in the county for individuals with mental	38089
retardation and developmental disabilities that have been approved	38090
for payment of subsidy by the department of mental retardation and	38091
developmental disabilities.	38092
The membership in each such program and service in the county	38093
shall be reported on forms prescribed by the department of mental	38094

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retardation and developmental disabilities. 38095

The department of mental retardation and developmental 38096
disabilities shall adopt rules defining full-time equivalent 38097
enrollees and for determining the average daily membership 38098
therefrom, except that certification of average daily membership 38099
in approved school age ~~units~~ classes shall be in accordance with 38100
rules adopted by the state board of education. The average daily 38101
membership figure shall be determined by dividing the amount 38102
representing the sum of the number of enrollees in each program or 38103
service in the week for which the certification is made by the 38104
number of days the program or service was offered in that week. No 38105
enrollee may be counted in average daily membership for more than 38106
one program or service. 38107

(2) By the fifteenth day of December, the number of children 38108
enrolled in approved preschool units on the first day of December; 38109

(3) On or before the thirtieth day of March, an itemized 38110
report of all income and operating expenditures for the 38111
immediately preceding calendar year, in the format specified by 38112
the department of mental retardation and developmental 38113
disabilities; 38114

(4) By the fifteenth day of February, a report of the total 38115
annual cost per enrollee for operation of programs and services in 38116
the preceding calendar year. The report shall include a grand 38117
total of all programs operated, the cost of the individual 38118
programs, and the sources of funds applied to each program. 38119

(5) That each required certification and report is in 38120
accordance with rules established by the department of mental 38121
retardation and developmental disabilities and the state board of 38122
education for the operation and subsidization of the programs and 38123
services. 38124

(C) To compute payments under this section to the board for 38125

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the fiscal year, the department of mental retardation and
developmental disabilities shall use the certification of average
daily membership required by division (B)(1) of this section
exclusive of the average daily membership in any approved school
age ~~unit~~ class and the number in any approved preschool unit.

(D) The department shall pay each county board for each
fiscal year an amount equal to nine hundred fifty dollars times
the certified number of persons who on the first day of December
of the academic year are under three years of age and are not in
an approved preschool unit. For persons who are at least age
sixteen and are not in an approved school age ~~unit~~ class, the
department shall pay each county board for each fiscal year the
following amounts:

(1) One thousand dollars times the certified average daily
membership of persons enrolled in traditional adult services who
are eligible for but not enrolled in active treatment under the
community alternative funding system;

(2) One thousand two hundred dollars times the certified
average daily membership of persons enrolled in traditional adult
services who are eligible for and enrolled in active treatment
under the community alternative funding system;

(3) No less than one thousand five hundred dollars times the
certified average daily membership of persons enrolled in
traditional adult services but who are not eligible for active
treatment under the community alternative funding system;

(4) No less than one thousand five hundred dollars times the
certified average daily membership of persons participating in
community employment services.

(E) The department shall distribute this subsidy to county
boards in semiannual installments of equal amounts. The
installments shall be made not later than the thirty-first day of

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August and the thirty-first day of January. 38157

(F) The director of mental retardation and developmental 38158
disabilities shall make efforts to obtain increases in the 38159
subsidies for early childhood services and adult services so that 38160
the amount of the subsidies is equal to at least fifty per cent of 38161
the statewide average cost of those services minus any applicable 38162
federal reimbursements for those services. The director shall 38163
advise the director of budget and management of the need for any 38164
such increases when submitting the biennial appropriations request 38165
for the department. 38166

(G) In determining the reimbursement of a county board for 38167
the provision of case management and family support services and 38168
other services required or approved by the director for which 38169
children three through twenty-one years of age are eligible, the 38170
department shall include the average daily membership in approved 38171
school age or preschool units. The department, in accordance with 38172
this section and upon receipt and approval of the certification 38173
required by this section and any other information it requires to 38174
enable it to determine a board's payments, shall pay the agency 38175
providing the specialized training the amounts payable under this 38176
section. 38177

Sec. 5126.18. (A) The department of mental retardation and 38178
developmental disabilities may pay to each county board of mental 38179
retardation and developmental disabilities whose hypothetical 38180
local revenue per enrollee is less than the hypothetical statewide 38181
average revenue per enrollee the amount computed under division 38182
(B) of this section. The department may make the payment to a 38183
county board only if the plan the county board develops under 38184
section 5126.054 of the Revised Code is approved under section 38185
5123.046 of the Revised Code. If this section is implemented in 38186
any year, payments shall be made on or before the thirtieth day of 38187

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September. 38188

(B) Except as provided in division (C) of this section, the 38189
amount to be paid to a county board shall be equal to the 38190
following: 38191

(1) If the county board's effective tax rate is equal to or 38192
greater than one mill, the product obtained by multiplying the 38193
following two quantities: 38194

(a) The amount by which the hypothetical statewide average 38195
revenue per enrollee exceeds the county board's hypothetical local 38196
revenue per enrollee; 38197

(b) The county board's infant and adult enrollment. 38198

(2) If the county board's effective tax rate is less than one 38199
mill, the product obtained by multiplying the following three 38200
quantities: 38201

(a) The amount by which the hypothetical statewide average 38202
revenue per enrollee exceeds the county board's hypothetical local 38203
revenue per enrollee; 38204

(b) The county board's infant and adult enrollment; 38205

(c) The quotient obtained by dividing the county board's 38206
effective tax rate by one mill. 38207

(C)(1) For each individual who is enrolled in active 38208
treatment under the community alternative funding system as 38209
defined in section 5126.12 of the Revised Code, the department may 38210
reduce the portion of the payment made under this section for that 38211
individual by fifty per cent or less. 38212

(2) If, in any year, an appropriation by the general assembly 38213
to the department for purposes of this section is less than the 38214
total amount required to make, in full, the payments as determined 38215
under and authorized by this section, the department shall pay 38216
each county board the same percentage of the board's payment as 38217

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determined under this section without regard to this division that 38218
the amount of the appropriation available for purposes of this 38219
section is of the total amount of payments as determined under 38220
this section without regard to this division. 38221

(3) Payments made to a county board pursuant to this section 38222
shall not exceed thirty per cent of the payments made to that 38223
board pursuant to section 5126.12 of the Revised Code. 38224

(D) Payments made under this section are supplemental to all 38225
other state or federal funds for which county boards are eligible 38226
and shall be made from funds appropriated for purposes of this 38227
section. ~~The A county board shall use the payments shall be used~~ 38228
~~solely for the development and implementation of early~~ 38229
~~intervention services for individuals included in the board's~~ 38230
~~infant enrollment and adult services for individuals included in~~ 38231
~~the board's adult enrollment to pay the nonfederal share of~~ 38232
~~medicaid expenditures that division (A) of section 5126.056 of the~~ 38233
~~Revised Code requires the county board to pay.~~ 38234

(E) Each county board that receives a payment under this 38235
section shall, for each year it receives a payment, certify to the 38236
department that it will make a good faith effort to obtain 38237
revenues, including federal funds, for services to individuals 38238
included in its infant and adult enrollment. 38239

Sec. 5126.357. (A) As used in this section: 38240

(1) "In-home care" means the supportive services provided 38241
within the home of an individual who receives funding for the 38242
services as a county board client, including any client who 38243
receives residential services funded through ~~the medical~~ 38244
~~assistance program's home and or~~ community-based services ~~waivers~~ 38245
~~administered by the department of mental retardation and~~ 38246
~~developmental disabilities~~, family support services provided under 38247
section 5126.11 of the Revised Code, or supported living provided 38248

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in accordance with sections 5126.41 to 5126.47 of the Revised 38249
Code. "In-home care" includes care that is provided outside a 38250
client's home in places incidental to the home, and while 38251
traveling to places incidental to the home, except that "in-home 38252
care" does not include care provided in the facilities of a county 38253
board of mental retardation and developmental disabilities or care 38254
provided in schools. 38255

(2) "Parent" means either parent of a child, including an 38256
adoptive parent but not a foster parent. 38257

(3) "Unlicensed in-home care worker" means an individual who 38258
provides in-home care but is not a health care professional. A 38259
county board worker may be an unlicensed in-home care worker. 38260

(4) "Family member" means a parent, sibling, spouse, son, 38261
daughter, grandparent, aunt, uncle, cousin, or guardian of the 38262
individual with mental retardation or a developmental disability 38263
if the individual with mental retardation or developmental 38264
disabilities lives with the person and is dependent on the person 38265
to the extent that, if the supports were withdrawn, another living 38266
arrangement would have to be found. 38267

(B) Except as provided in division (D) of this section, a 38268
family member of an individual with mental retardation or a 38269
developmental disability may authorize an unlicensed in-home care 38270
worker to give or apply prescribed medication or perform other 38271
health care tasks as part of the in-home care provided to the 38272
individual, if the family member is the primary supervisor of the 38273
care and the unlicensed in-home care worker has been selected by 38274
the family member and is under the direct supervision of the 38275
family member. Sections 4723.62 and 5126.351 to 5126.356 of the 38276
Revised Code do not apply to the in-home care authorized by a 38277
family member under this section. Instead, a family member shall 38278
obtain a prescription, if applicable, and written instructions 38279
from a health care professional for the care to be provided to the 38280

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individual. The family member shall authorize the unlicensed
in-home care worker to provide the care by preparing a written
document granting the authority. The family member shall provide
the unlicensed in-home care worker with appropriate training and
written instructions in accordance with the instructions obtained
from the health care professional.

(C) A family member who authorizes an unlicensed in-home care
worker to give or apply prescribed medication or perform other
health care tasks retains full responsibility for the health and
safety of the individual receiving the care and for ensuring that
the worker provides the care appropriately and safely. No entity
that funds or monitors the provision of in-home care may be held
liable for the results of the care provided under this section by
an unlicensed in-home care worker, including such entities as the
county board of mental retardation and developmental disabilities,
any other entity that employs an unlicensed in-home care worker,
and the department of mental retardation and developmental
disabilities.

An unlicensed in-home care worker who is authorized under
this section by a family member to provide care to an individual
may not be held liable for any injury caused in providing the
care, unless the worker provides the care in a manner that is not
in accordance with the training and instructions received or the
worker acts in a manner that constitutes wanton or reckless
misconduct.

(D) A county board of mental retardation and developmental
disabilities may evaluate the authority granted by a family member
under this section to an unlicensed in-home care worker at any
time it considers necessary and shall evaluate the authority on
receipt of a complaint. If the board determines that a family
member has acted in a manner that is inappropriate for the health
and safety of the individual receiving the services, the

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authorization granted by the family member to an unlicensed 38313
in-home care worker is void, and the family member may not 38314
authorize other unlicensed in-home care workers to provide the 38315
care. In making such a determination, the board shall use 38316
appropriately licensed health care professionals and shall provide 38317
the family member an opportunity to file a complaint under section 38318
5126.06 of the Revised Code. 38319

Sec. 5126.431. (A) Pursuant to Chapter 119. of the Revised 38320
Code, the department of mental retardation and developmental 38321
disabilities shall adopt rules establishing standards and 38322
procedures for certification of persons and government entities 38323
that provide or propose to provide, under contract with ~~the~~ 38324
~~department until July 1, 1995, or with~~ a county board of mental 38325
retardation and developmental disabilities, supported living for 38326
individuals with mental retardation or developmental disabilities. 38327
The rules shall allow a person or government entity to 38328
automatically satisfy a standard for certification under this 38329
section if the person holds a current, valid license under section 38330
5123.19 of the Revised Code to operate a residential facility and 38331
had to satisfy the standard to obtain the residential facility 38332
license. 38333

(B) Pursuant to Chapter 119. of the Revised Code, the 38334
department shall adopt rules establishing quality assurance 38335
standards for supported living provided to individuals by 38336
providers certified under this section. 38337

(C) The rules adopted under this section shall include the 38338
following: 38339

(1) Procedures for ensuring that providers comply with 38340
section 5126.281 of the Revised Code; 38341

(2) Methods of evaluating the services provided and 38342
protecting the due process rights of any individual or entity 38343

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affected by an evaluation or decision made pursuant to this 38344
section; 38345

(3) Procedures for revoking certification. 38346

(D)(1) Providers shall be evaluated to ensure that services 38347
are provided in a quality manner advantageous to the individual 38348
receiving the services. When evaluations are conducted, the 38349
following shall be considered: 38350

(a) The provider's experience and financial responsibility; 38351

(b) The ability to comply with program standards for 38352
supported living; 38353

(c) The ability to meet the needs of the individuals served; 38354

~~(d) The ability to work cooperatively with the department,~~ 38355
~~county boards, and other providers;~~ 38356

~~(e)~~ Any other factor considered relevant. 38357

(2) The records of evaluations conducted under this section 38358
are public records for purposes of section 149.43 of the Revised 38359
Code and shall be made available on request of any person, 38360
including individuals being served, individuals seeking supported 38361
living, and county boards. 38362

(E) The department shall certify providers in accordance with 38363
the rules adopted under this section. The department may revoke a 38364
provider's certification for good cause, including misfeasance, 38365
malfeasance, nonfeasance, confirmed abuse or neglect, financial 38366
irresponsibility, or other conduct the department determines is 38367
injurious to individuals being served. 38368

Sec. 5139.01. (A) As used in this chapter: 38369

(1) "Commitment" means the transfer of the physical custody 38370
of a child or youth from the court to the department of youth 38371
services. 38372

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(2) "Permanent commitment" means a commitment that vests legal custody of a child in the department of youth services.

(3) "Legal custody," insofar as it pertains to the status that is created when a child is permanently committed to the department of youth services, means a legal status in which the department has the following rights and responsibilities: the right to have physical possession of the child; the right and duty to train, protect, and control the child; the responsibility to provide the child with food, clothing, shelter, education, and medical care; and the right to determine where and with whom the child shall live, subject to the minimum periods of, or periods of, institutional care prescribed in section 2151.355 of the Revised Code; provided, that these rights and responsibilities are exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child, and subject to any residual parental rights and responsibilities.

(4) Unless the context requires a different meaning, "institution" means a state facility that is created by the general assembly and that is under the management and control of the department of youth services or a private entity with which the department has contracted for the institutional care and custody of felony delinquents.

(5) "Full-time care" means care for twenty-four hours a day for over a period of at least two consecutive weeks.

(6) "Placement" means the conditional release of a child under the terms and conditions that are specified by the department of youth services. The department shall retain legal custody of a child released pursuant to division (C) of section 2151.38 of the Revised Code or division (C) of section 5139.06 of the Revised Code until the time that it discharges the child or until the legal custody is terminated as otherwise provided by law.

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(7) "Home placement" means the placement of a child in the home of the child's parent or parents or in the home of the guardian of the child's person.

(8) "Discharge" means that the department of youth services' legal custody of a child is terminated.

(9) "Release" means the termination of a child's stay in an institution and the subsequent period during which the child returns to the community under the terms and conditions of supervised release.

(10) "Delinquent child" has the same meaning as in section 2151.02 of the Revised Code.

(11) "Felony delinquent" means any child who is at least twelve years of age but less than eighteen years of age and who is adjudicated a delinquent child for having committed an act that if committed by an adult would be a felony. "Felony delinquent" includes any adult who is between the ages of eighteen and twenty-one and who is in the legal custody of the department of youth services for having committed an act that if committed by an adult would be a felony.

(12) "Juvenile traffic offender" has the same meaning as in section 2151.021 of the Revised Code.

(13) "Public safety beds" means all of the following:

(a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a community corrections facility;

(b) Felony delinquents who, while committed to the department

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of youth services and in the care and custody of an institution or
a community corrections facility, are adjudicated delinquent
children for having committed in that institution or community
corrections facility an act that if committed by an adult would be
a felony;

(c) Children who satisfy all of the following:

(i) They are at least twelve years of age but less than
eighteen years of age.

(ii) They are adjudicated delinquent children for having
committed acts that if committed by an adult would be a felony.

(iii) They are committed to the department of youth services
by the juvenile court of a county that has had one-tenth of one
per cent or less of the statewide adjudications for felony
delinquents as averaged for the past four fiscal years.

(iv) They are in the care and custody of an institution or a
community corrections facility.

(d) Felony delinquents who, while committed to the department
of youth services and in the care and custody of an institution,
commit in that institution an act that if committed by an adult
would be a felony, who are serving disciplinary time for having
committed that act, and who have been institutionalized or
institutionalized in a secure facility for the minimum period of
time specified in division (A)(4) or (5) of section 2151.355 of
the Revised Code.

(e) Felony delinquents who are subject to and serving a
three-year period of commitment order imposed by a juvenile court
pursuant to division (A)(7) of section 2151.355 of the Revised
Code for an act, other than a violation of section 2911.11 of the
Revised Code, that would be a category one offense or category two
offense if committed by an adult.

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(f) Felony delinquents who are described in divisions 38465
(A)(13)(a) to (e) of this section, who have been granted a 38466
judicial release under division (B) of section 2151.38 of the 38467
Revised Code or an early release under division (C) of that 38468
section from the commitment to the department of youth services 38469
for the act described in divisions (A)(13)(a) to (e) of this 38470
section, who have violated the terms and conditions of that 38471
judicial release or early release, and who, pursuant to an order 38472
of the court of the county in which the particular felony 38473
delinquent was placed on release that is issued pursuant to 38474
division (D) of section 2151.38 of the Revised Code, have been 38475
returned to the department for institutionalization or 38476
institutionalization in a secure facility. 38477

(g) Felony delinquents who have been committed to the custody 38478
of the department of youth services, who have been granted 38479
supervised release from the commitment pursuant to section 5139.51 38480
of the Revised Code, who have violated the terms and conditions of 38481
that supervised release, and who, pursuant to an order of the 38482
court of the county in which the particular child was placed on 38483
supervised release issued pursuant to division (F) of section 38484
5139.52 of the Revised Code, have had the supervised release 38485
revoked and have been returned to the department for 38486
institutionalization. A felony delinquent described in this 38487
division shall be a public safety bed only for the time during 38488
which the felony delinquent is institutionalized as a result of 38489
the revocation subsequent to the initial thirty-day period of 38490
institutionalization required by division (F) of section 5139.52 38491
of the Revised Code. 38492

(14) "State target youth" means twenty-five per cent of the 38493
projected total number of felony delinquents for each year of a 38494
biennium, factoring in revocations and recommitments. 38495

(15) Unless the context requires a different meaning, 38496

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"community corrections facility" means a county or multicounty rehabilitation center for felony delinquents who have been committed to the department of youth services and diverted from care and custody in an institution and placed in the rehabilitation center pursuant to division (E) of section 5139.36 of the Revised Code.

(16) "Secure facility" means any facility that is designed and operated to ensure that all of its entrances and exits are under the exclusive control of its staff and to ensure that, because of that exclusive control, no child who has been institutionalized in the facility may leave the facility without permission or supervision.

(17) "Community residential program" means a program that satisfies both of the following:

(a) It is housed in a building or other structure that has no associated major restraining construction, including, but not limited to, a security fence.

(b) It provides twenty-four-hour care, supervision, and programs for felony delinquents who are in residence.

(18) "Category one offense" and "category two offense" have the same meanings as in section 2151.26 of the Revised Code.

(19) "Disciplinary time" means additional time that the department of youth services requires a felony delinquent to serve in an institution, that delays the felony delinquent's planned release, and that the department imposes upon the felony delinquent following the conduct of an internal due process hearing for having committed any of the following acts while committed to the department and in the care and custody of an institution:

(a) An act that if committed by an adult would be a felony;

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(b) An act that if committed by an adult would be a 38527
misdemeanor; 38528

(c) An act that is not described in division (A)(19)(a) or 38529
(b) of this section and that violates an institutional rule of 38530
conduct of the department. 38531

(20) "Unruly child" has the same meaning as in section 38532
2151.022 of the Revised Code. 38533

(21) "Revocation" means the act of revoking a child's 38534
supervised release for a violation of a term or condition of the 38535
child's supervised release in accordance with section 5139.52 of 38536
the Revised Code. 38537

(22) "Release authority" means the release authority of the 38538
department of youth services that is established by section 38539
5139.50 of the Revised Code. 38540

(23) "Supervised release" means the event of the release of a 38541
child under this chapter from an institution and the period after 38542
that release during which the child is supervised and assisted by 38543
an employee of the department of youth services under specific 38544
terms and conditions for reintegration of the child into the 38545
community. 38546

(24) "Victim" means the person identified in a police report, 38547
complaint, or information as the victim of an act that would have 38548
been a criminal offense if committed by an adult and that provided 38549
the basis for adjudication proceedings resulting in a child's 38550
commitment to the legal custody of the department of youth 38551
services. 38552

(25) "Victim's representative" means a member of the victim's 38553
family or another person whom the victim or another authorized 38554
person designates in writing, pursuant to section 5139.56 of the 38555
Revised Code, to represent the victim with respect to proceedings 38556
of the release authority of the department of youth services and 38557

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with respect to other matters specified in that section. 38558

(26) "Member of the victim's family" means a spouse, child, 38559
stepchild, sibling, parent, stepparent, grandparent, other 38560
relative, or legal guardian of a child but does not include a 38561
person charged with, convicted of, or adjudicated a delinquent 38562
child for committing a criminal or delinquent act against the 38563
victim or another criminal or delinquent act arising out of the 38564
same conduct, criminal or delinquent episode, or plan as the 38565
criminal or delinquent act committed against the victim. 38566

(27) "Judicial release" means a release of a child from 38567
institutional care or institutional care in a secure facility that 38568
is granted by a court pursuant to division (B) of section 2151.38 38569
of the Revised Code during the period specified in that division. 38570

(28) "Early release" means a release of a child from 38571
institutional care or institutional care in a secure facility that 38572
is granted by a court pursuant to division (C) of section 2151.38 38573
of the Revised Code during the period specified in that division. 38574

(29) "Juvenile justice system" includes all of the functions 38575
of the juvenile courts, the department of youth services, any 38576
public or private agency whose purposes include the prevention of 38577
delinquency or the diversion, adjudication, detention, or 38578
rehabilitation of delinquent children, and any of the functions of 38579
the criminal justice system that are applicable to children. 38580

(30) "Metropolitan county criminal justice services agency" 38581
means an agency that is established pursuant to division (A) of 38582
section 181.54 of the Revised Code. 38583

(31) "Administrative planning district" means a district that 38584
is established pursuant to division (A) or (B) of section 181.56 38585
of the Revised Code. 38586

(32) "Criminal justice coordinating council" means a criminal 38587
justice services agency that is established pursuant to division 38588

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(D) of section 181.56 of the Revised Code. 38589

(33) "Comprehensive plan" means a document that coordinates, 38590
evaluates, and otherwise assists, on an annual or multi-year 38591
basis, all of the functions of the juvenile justice systems of the 38592
state or a specified area of the state, that conforms to the 38593
priorities of the state with respect to juvenile justice systems, 38594
and that conforms with the requirements of all federal criminal 38595
justice acts. These functions include, but are not limited to, all 38596
of the following: 38597

(a) Delinquency prevention; 38598

(b) Identification, detection, apprehension, and detention of 38599
persons charged with delinquent acts; 38600

(c) Assistance to crime victims or witnesses, except that the 38601
comprehensive plan does not include the functions of the attorney 38602
general pursuant to sections 109.91 and 109.92 of the Revised 38603
Code; 38604

(d) Adjudication or diversion of persons charged with 38605
delinquent acts; 38606

(e) Custodial treatment of delinquent children; 38607

(f) Institutional and noninstitutional rehabilitation of 38608
delinquent children. 38609

(B) There is hereby created the department of youth services. 38610
The governor shall appoint the director of the department with the 38611
advice and consent of the senate. The director shall hold office 38612
during the term of the appointing governor but subject to removal 38613
at the pleasure of the governor. Except as otherwise authorized in 38614
section 108.05 of the Revised Code, the director shall devote the 38615
director's entire time to the duties of the director's office and 38616
shall hold no other office or position of trust or profit during 38617
the director's term of office. 38618

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The director is the chief executive and administrative officer of the department and has all the powers of a department head set forth in Chapter 121. of the Revised Code. The director may adopt rules for the government of the department, the conduct of its officers and employees, the performance of its business, and the custody, use, and preservation of the department's records, papers, books, documents, and property. The director shall be an appointing authority within the meaning of Chapter 124. of the Revised Code. Whenever this or any other chapter or section of the Revised Code imposes a duty on or requires an action of the department, the duty or action shall be performed by the director or, upon the director's order, in the name of the department.

Sec. 5139.11. The department of youth services shall do all of the following:

(A) Through a program of education, promotion, and organization, form groups of local citizens and assist these groups in conducting activities aimed at the prevention and control of juvenile delinquency, making use of local people and resources for the following purposes:

(1) Combatting local conditions known to contribute to juvenile delinquency;

(2) Developing recreational and other programs for youth work;

(3) Providing adult sponsors for delinquent children cases;

(4) Dealing with other related problems of the locality;

(B) Advise local, state, and federal officials, public and private agencies, and lay groups on the needs for and possible methods of the reduction and prevention of juvenile delinquency and the treatment of delinquent children;

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(C) Consult with the schools and courts of this state on the development of programs for the reduction and prevention of delinquency and the treatment of delinquents;

(D) Cooperate with other agencies whose services deal with the care and treatment of delinquent children to the end that delinquent children who are state wards may be assisted whenever possible to a successful adjustment outside of institutional care;

(E) Cooperate with other agencies in surveying, developing, and utilizing the recreational resources of a community as a means of combatting the problem of juvenile delinquency and effectuating rehabilitation;

(F) Hold district and state conferences from time to time in order to acquaint the public with current problems of juvenile delinquency and develop a sense of civic responsibility toward the prevention of juvenile delinquency;

(G) Assemble and distribute information relating to juvenile delinquency and report on studies relating to community conditions that affect the problem of juvenile delinquency;

(H) Assist any community within the state by conducting a comprehensive survey of the community's available public and private resources, and recommend methods of establishing a community program for combatting juvenile delinquency and crime, but no survey of that type shall be conducted unless local individuals and groups request it through their local authorities, and no request of that type shall be interpreted as binding the community to following the recommendations made as a result of the request;

(I) Evaluate the rehabilitation of children committed to the department and prepare and submit periodic reports to the committing court for the following purposes:

(1) Evaluating the effectiveness of institutional treatment;

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(2) Making recommendations for early release where	38680
appropriate and recommending terms and conditions for release;	38681
(3) Reviewing the placement of children and recommending	38682
alternative placements where appropriate.	38683
(J) Coordinate dates for hearings to be conducted under	38684
section 2151.38 of the Revised Code and assist in the transfer and	38685
release of children from institutionalization to the custody of	38686
the committing court;	38687
<u>(K)(1) Coordinate and assist juvenile justice systems by</u>	38688
<u>doing the following:</u>	38689
<u>(a) Performing juvenile justice system planning in the state,</u>	38690
<u>including any planning that is required by any federal law;</u>	38691
<u>(b) Collecting, analyzing, and correlating information and</u>	38692
<u>data concerning the juvenile justice system in the state;</u>	38693
<u>(c) Cooperating with and providing technical assistance to</u>	38694
<u>state departments, administrative planning districts, metropolitan</u>	38695
<u>county criminal justice services agencies, criminal justice</u>	38696
<u>coordinating councils, and agencies, offices, and departments of</u>	38697
<u>the juvenile justice system in the state, and other appropriate</u>	38698
<u>organizations and persons;</u>	38699
<u>(d) Encouraging and assisting agencies, offices, and</u>	38700
<u>departments of the juvenile justice system in the state and other</u>	38701
<u>appropriate organizations and persons to solve problems that</u>	38702
<u>relate to the duties of the department;</u>	38703
<u>(e) Administering within the state any juvenile justice acts</u>	38704
<u>and programs that the governor requires the department to</u>	38705
<u>administer;</u>	38706
<u>(f) Implementing the state comprehensive plans;</u>	38707
<u>(g) Auditing grant activities of agencies, offices,</u>	38708
<u>organizations, and persons that are financed in whole or in part</u>	38709

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<u>by funds granted through the department;</u>	38710
<u>(h) Monitoring or evaluating the performance of juvenile</u>	38711
<u>justice system projects and programs in the state that are</u>	38712
<u>financed in whole or in part by funds granted through the</u>	38713
<u>department;</u>	38714
<u>(i) Applying for, allocating, disbursing, and accounting for</u>	38715
<u>grants that are made available pursuant to federal juvenile</u>	38716
<u>justice acts, or made available from other federal, state, or</u>	38717
<u>private sources, to improve the criminal and juvenile justice</u>	38718
<u>systems in the state. All money from federal juvenile justice act</u>	38719
<u>grants shall, if the terms under which the money is received</u>	38720
<u>require that the money be deposited into an interest bearing fund</u>	38721
<u>or account, be deposited in the state treasury to the credit of</u>	38722
<u>the federal juvenile justice program purposes fund, which is</u>	38723
<u>hereby created. All investment earnings shall be credited to the</u>	38724
<u>fund.</u>	38725
<u>(j) Contracting with federal, state, and local agencies,</u>	38726
<u>foundations, corporations, businesses, and persons when necessary</u>	38727
<u>to carry out the duties of the department;</u>	38728
<u>(k) Overseeing the activities of metropolitan county criminal</u>	38729
<u>justice services agencies, administrative planning districts, and</u>	38730
<u>juvenile justice coordinating councils in the state;</u>	38731
	38732
<u>(l) Advising the general assembly and governor on legislation</u>	38733
<u>and other significant matters that pertain to the improvement and</u>	38734
<u>reform of the juvenile justice system in the state;</u>	38735
	38736
<u>(m) Preparing and recommending legislation to the general</u>	38737
<u>assembly and governor for the improvement of the juvenile justice</u>	38738
<u>system in the state;</u>	38739
<u>(n) Assisting, advising, and making any reports that are</u>	38740

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required by the governor, attorney general, or general assembly; 38741

(o) Adopting rules pursuant to Chapter 119. of the Revised 38742
Code. 38743

(2) Division (K)(1) of this section does not limit the 38744
discretion or authority of the attorney general with respect to 38745
crime victim assistance and criminal and juvenile justice 38746
programs. 38747

(3) Nothing in division (K)(1) of this section is intended to 38748
diminish or alter the status of the office of the attorney general 38749
as a criminal justice services agency; 38750

(4) The governor may appoint any advisory committees to 38751
assist the department that the governor considers appropriate or 38752
that are required under any state or federal law. 38753

Sec. 5139.29. The department of youth services shall adopt 38754
and promulgate regulations prescribing the method of calculating 38755
the amount of and the time and manner for the payment of financial 38756
assistance granted under sections 5139.27, and 5139.271, ~~and~~ 38757
~~5139.28~~ of the Revised Code, for the construction or acquisition 38758
of a district detention home established under section 2151.34 of 38759
the Revised Code, or for the construction and maintenance of a 38760
school, forestry camp, or other facility established under section 38761
2151.65 of the Revised Code. 38762

Sec. 5139.31. The department of youth services may inspect 38763
any school, forestry camp, district detention home, or other 38764
facility for which an application for financial assistance has 38765
been made to the department under section 2151.341, 2151.3416, or 38766
~~2151.651, or 2151.652~~ of the Revised Code or for which financial 38767
assistance has been granted by the department under section 38768
5139.27, 5139.271, ~~5139.28~~, or 5139.281 of the Revised Code. The 38769
inspection may include, but need not be limited to, examination 38770

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and evaluation of the physical condition of the school, forestry 38771
camp, district detention home, or other facility, including any 38772
equipment used in connection with it; observation and evaluation 38773
of the training and treatment of children admitted to it; 38774
examination and analysis and copying of any papers, records, or 38775
other documents relating to the qualifications of personnel, the 38776
commitment of children to it, and its administration. 38777

Sec. 5139.87. There are hereby created in the state treasury 38778
the federal juvenile justice programs funds. A separate fund shall 38779
be established each federal fiscal year. All federal grants and 38780
other moneys received for federal juvenile programs shall be 38781
deposited into the funds. All receipts deposited into the funds 38782
shall be used for federal juvenile programs. All investment 38783
earnings on the cash balance in a federal juvenile program fund 38784
shall be credited to that fund for the appropriate federal fiscal 38785
year. 38786

Sec. 5153.06. The county children services board may enter 38787
into a written contract with the board's executive director 38788
specifying terms and conditions of the executive director's 38789
employment. The executive director shall not be in the classified 38790
civil service. The period of the contract shall not exceed three 38791
years. Such a contract shall in no way abridge the right of the 38792
county children services board to terminate the employment of the 38793
executive director as an unclassified employee at will, but may 38794
specify terms and conditions for any such termination. 38795

Sec. 5153.165. If a family is encountering an emergency that 38796
could lead, or has led, to removal of a child from the family's 38797
home pursuant to Chapter 2151. of the Revised Code, the public 38798
children services agency shall determine whether the child could 38799
remain safely with, or be safely returned to, the family if the 38800
emergency were alleviated by providing ~~assistance~~ benefits and 38801

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services under the prevention, retention, and contingency program 38802
established under Chapter 5108. of the Revised Code. If it is 38803
determined that the child could remain safely with, or be safely 38804
returned to, the family, the agency, with the cooperation of the 38805
child's family, shall determine the amount of ~~assistance~~ benefits 38806
and services necessary to prevent the removal of the child from 38807
the home or to permit the child's return to the home and may 38808
provide the ~~assistance~~ benefits and services pursuant to a plan of 38809
cooperation entered into under section 307.983 of the Revised 38810
Code. 38811

Sec. 5153.60. The department of job and family services shall 38812
establish a statewide program that provides the training section 38813
5153.122 of the Revised Code requires public children services 38814
agency caseworkers and supervisors to complete. The program may 38815
also provide the preplacement and continuing training described in 38816
sections 5103.039, 5103.0310, and 5103.0311 of the Revised Code 38817
that foster caregivers are required by sections 5103.031, 38818
5103.032, and 5103.033 of the Revised Code to obtain. The program 38819
shall be called the "Ohio child welfare training program." 38820
38821

Sec. 5153.69. The training program steering committee shall 38822
monitor and evaluate the Ohio child welfare training program to 38823
ensure ~~that~~ the following: 38824

(A) That the Ohio child welfare training program is a 38825
competency-based training system that satisfies the training 38826
requirements for public children services agency caseworkers and 38827
supervisors under section 5153.122 of the Revised Code; 38828

(B) That, if the Ohio child welfare training program provides 38829
preplacement or continuing training for foster caregivers, it 38830
meets the same requirements that preplacement training programs 38831
and continuing training programs must meet pursuant to section 38832

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5103.038 of the Revised Code to obtain approval by the department
of job and family services, except that the Ohio child welfare
training program is not required to obtain department approval.

Sec. 5153.78. (A) As used in this section:

(1) "Title IV-B" means Title IV-B of the "Social Security Act
of 1967," 81 Stat. 821, 42 U.S.C. 620, as amended.

(2) "Title IV-E" means Title IV-E of the "Social Security
Act," 94 Stat. 501, 42 U.S.C. 670(1980).

(3) "Title XX" has the same meaning as in section 5101.46 of
the Revised Code.

(B) For purposes of adequately funding the Ohio child welfare
training program, the department of job and family services ~~shall~~
~~may~~ use any of the following ~~to adequately fund the Ohio child~~
~~welfare training program:~~

(1) The federal financial participation funds withheld
pursuant to division (D) of section 5101.141 of the Revised Code
in an amount determined by the department;

(2) Funds available under Title XX, Title IV-B, and Title
IV-E to pay for training costs;

(3) ~~Any other~~ Other available state or federal funds.

Sec. 5703.17. (A) In making an investigation as to any
company, firm, corporation, person, association, partnership, or
public utility subject to the laws which the tax commissioner is
required to administer, the commissioner may appoint by an order
in writing an agent, a tax auditor agent, or a tax auditor agent
manager, whose duties shall be prescribed in such order.

In the discharge of ~~his~~ such agent's duties ~~such,~~ the agent
shall have every power of an inquisitorial nature granted by law

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to the commissioner, and the same powers as a notary public as to 38862
the taking of depositions, and all powers given by law to a notary 38863
public relative to depositions are hereby given to such agent. 38864

(B) No person shall be appointed as a tax auditor agent or a 38865
tax auditor agent manager, unless that person meets one of the 38866
following requirements: 38867

(1) The person holds from an accredited college or university 38868
a baccalaureate or higher degree in accounting, business, business 38869
administration, public administration, or management, a doctoral 38870
degree in law, a bachelor of laws degree, or a master of laws 38871
degree in taxation. 38872

(2) The person possesses a current certified public 38873
accountant, certified managerial accountant, or certified internal 38874
auditor certificate; a professional tax designation issued by the 38875
institute for professionals in taxation or the international 38876
association of assessing officers; or a designation as an enrolled 38877
agent of the Internal Revenue Service. 38878

(3) The person has accounting, auditing, or taxation 38879
experience that is acceptable to the department of taxation. 38880

(4) The person has experience as a tax commissioner agent, 38881
tax auditor agent, or supervisor of tax agents that is acceptable 38882
to the department of taxation. 38883

Sec. 5703.49. (A) As used in this section, "internet" means 38884
the international computer network of both federal and nonfederal 38885
interoperable packet switched data networks, including the 38886
graphical subnetwork known as the world wide web. 38887

(B) On or before December 31, 2001, the tax commissioner 38888
shall establish an electronic site accessible through the 38889
internet. The tax commissioner shall provide access on the site 38890
for each municipal corporation that has not established its own 38891

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electronic site to post documents or information required under 38892
section 718.07 of the Revised Code. The tax commissioner shall 38893
provide electronic links for each municipal corporation that 38894
establishes a site under that section and for which a uniform 38895
resource locator has been provided to the tax commissioner. The 38896
tax commissioner is not responsible for the accuracy of the posted 38897
information, and is not liable for any inaccurate or outdated 38898
information provided by a municipal corporation. The tax 38899
commissioner may adopt rules governing the format and means of 38900
submitting such documents or information and other matters 38901
necessary to implement this section. The tax commissioner may 38902
charge municipal corporations a fee to defray the cost of 38903
establishing and maintaining the electronic site established under 38904
this section. 38905

(C) The tax commissioner shall deposit any fees received 38906
under this section to the credit of the municipal internet site 38907
fund, which is hereby created in the state treasury. The 38908
commissioner shall use the fund for costs of establishing and 38909
maintaining the electronic site established under this section. 38910

Sec. 5705.091. The board of county commissioners of each 38911
county shall establish a county mental retardation and 38912
developmental disabilities general fund. Notwithstanding sections 38913
5705.09 and 5705.10 of the Revised Code, proceeds from levies 38914
under section 5705.222 and division (L) of section 5705.19 of the 38915
Revised Code shall be deposited to the credit of the county mental 38916
retardation and developmental disabilities general fund. Accounts 38917
shall be established within the county mental retardation and 38918
developmental disabilities general fund for each of the several 38919
particular purposes of the levies as specified in the resolutions 38920
under which the levies were approved, and proceeds from different 38921
levies that were approved for the same particular purpose shall be 38922
credited to accounts for that purpose. Other money received by the 38923

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county for the purposes of Chapters 3323. and 5126. of the Revised Code and not required by state or federal law to be deposited to the credit of a different fund shall also be deposited to the credit of the county mental retardation and developmental disabilities general fund, in an account appropriate to the particular purpose for which the money was received. Unless otherwise provided by law, an unexpended balance at the end of a fiscal year in any account in the county mental retardation and developmental disabilities general fund shall be appropriated the next fiscal year to the same fund.

A county board of mental retardation and developmental disabilities may request, by resolution, that the board of county commissioners establish a county mental retardation and developmental disabilities capital fund for money to be used for acquisition, construction, or improvement of capital facilities or acquisition of capital equipment used in providing services to mentally retarded and developmentally disabled persons. The county board of mental retardation and developmental disabilities shall transmit a certified copy of the resolution to the board of county commissioners. Upon receiving the resolution, the board of county commissioners shall establish a county mental retardation and developmental disabilities capital fund.

A county board shall request, by resolution, that the board of county commissioners establish a county MR/DD medicaid reserve fund if such fund must be established for the county board to be in compliance with the component required by division (A)(3) of section 5126.054 of the Revised Code of a county board plan approved by the department of mental retardation and developmental disabilities under section 5123.046 of the Revised Code. On receipt of the resolution, the board of county commissioners shall establish a county MR/DD medicaid reserve fund. The portion of federal revenue funds that the county board earns for providing

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medicaid case management services and home or community-based 38956
services that is needed for the county board to pay for 38957
extraordinary costs, including extraordinary costs for services to 38958
individuals with mental retardation or other developmental 38959
disability, and ensure the availability of adequate funds in the 38960
event a county property tax levy for services for individuals with 38961
mental retardation or other developmental disability fails shall 38962
be deposited into the fund. The county board shall use money in 38963
the fund for those purposes. 38964

Sec. 5705.19. This section does not apply to school districts 38965
or county school financing districts. 38966

The taxing authority of any subdivision at any time and in 38967
any year, by vote of two-thirds of all the members of the taxing 38968
authority, may declare by resolution and certify the resolution to 38969
the board of elections not less than seventy-five days before the 38970
election upon which it will be voted that the amount of taxes that 38971
may be raised within the ten-mill limitation will be insufficient 38972
to provide for the necessary requirements of the subdivision and 38973
that it is necessary to levy a tax in excess of that limitation 38974
for any of the following purposes: 38975

(A) For current expenses of the subdivision, except that the 38976
total levy for current expenses of a detention home district or 38977
district organized under section 2151.65 of the Revised Code shall 38978
not exceed two mills and that the total levy for current expenses 38979
of a combined district organized under sections 2151.34 and 38980
2151.65 of the Revised Code shall not exceed four mills; 38981

(B) For the payment of debt charges on certain described 38982
bonds, notes, or certificates of indebtedness of the subdivision 38983
issued subsequent to January 1, 1925; 38984

(C) For the debt charges on all bonds, notes, and 38985
certificates of indebtedness issued and authorized to be issued 38986

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prior to January 1, 1925; 38987

(D) For a public library of, or supported by, the subdivision 38988
under whatever law organized or authorized to be supported; 38989
38990

(E) For a municipal university, not to exceed two mills over 38991
the limitation of one mill prescribed in section 3349.13 of the 38992
Revised Code; 38993

(F) For the construction or acquisition of any specific 38994
permanent improvement or class of improvements that the taxing 38995
authority of the subdivision may include in a single bond issue; 38996

(G) For the general construction, reconstruction, 38997
resurfacing, and repair of streets, roads, and bridges in 38998
municipal corporations, counties, or townships; 38999

(H) For recreational purposes; 39000

(I) For the purpose of providing and maintaining fire 39001
apparatus, appliances, buildings, or sites therefor, or sources of 39002
water supply and materials therefor, or the establishment and 39003
maintenance of lines of fire alarm telegraph, or the payment of 39004
permanent, part-time, or volunteer firefighters or firefighting 39005
companies to operate the same, including the payment of the 39006
firefighter employers' contribution required under section 742.34 39007
of the Revised Code, or the purchase of ambulance equipment, or 39008
the provision of ambulance, paramedic, or other emergency medical 39009
services operated by a fire department or firefighting company; 39010

(J) For the purpose of providing and maintaining motor 39011
vehicles, communications, and other equipment used directly in the 39012
operation of a police department, or the payment of salaries of 39013
permanent police personnel, including the payment of the police 39014
officer employers' contribution required under section 742.33 of 39015
the Revised Code, or the payment of the costs incurred by 39016
townships as a result of contracts made with other political 39017

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subdivisions in order to obtain police protection, or the 39018
provision of ambulance or emergency medical services operated by a 39019
police department; 39020

(K) For the maintenance and operation of a county home; 39021

(L) For community mental retardation and developmental 39022
disabilities programs and services pursuant to Chapter 5126. of 39023
the Revised Code, except that the procedure for such levies shall 39024
be as provided in section 5705.222 of the Revised Code; 39025

(M) For regional planning; 39026

(N) For a county's share of the cost of maintaining and 39027
operating schools, district detention homes, forestry camps, or 39028
other facilities, or any combination thereof, established under 39029
section 2151.34 or 2151.65 of the Revised Code or both of those 39030
sections; 39031

(O) For providing for flood defense, providing and 39032
maintaining a flood wall or pumps, and other purposes to prevent 39033
floods; 39034

(P) For maintaining and operating sewage disposal plants and 39035
facilities; 39036

(Q) For the purpose of purchasing, acquiring, constructing, 39037
enlarging, improving, equipping, repairing, maintaining, or 39038
operating, or any combination of the foregoing, a county transit 39039
system pursuant to sections 306.01 to 306.13 of the Revised Code, 39040
or of making any payment to a board of county commissioners 39041
operating a transit system or a county transit board pursuant to 39042
section 306.06 of the Revised Code; 39043

(R) For the subdivision's share of the cost of acquiring or 39044
constructing any schools, forestry camps, detention homes, or 39045
other facilities, or any combination thereof, under section 39046
2151.34 or 2151.65 of the Revised Code or both of those sections; 39047

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(S) For the prevention, control, and abatement of air pollution;	39048 39049
(T) For maintaining and operating cemeteries;	39050
(U) For providing ambulance service, emergency medical service, or both;	39051 39052
(V) For providing for the collection and disposal of garbage or refuse, including yard waste;	39053 39054
(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;	39055 39056 39057
(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;	39058 39059
(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;	39060 39061 39062
(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;	39063 39064 39065
(AA) For the maintenance and operation of a free public museum of art, science, or history;	39066 39067
(BB) For the establishment and operation of a 9-1-1 system, as defined in section 4931.40 of the Revised Code;	39068 39069
(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.	39070 39071 39072 39073 39074
(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in	39075 39076

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section 755.16 of the Revised Code; 39077

(EE) For the creation and operation of an office or joint 39078
office of economic development, for any economic development 39079
purpose of the office, and to otherwise provide for the 39080
establishment and operation of a program of economic development 39081
pursuant to sections 307.07 and 307.64 of the Revised Code; 39082

(FF) For the purpose of acquiring, establishing, 39083
constructing, improving, equipping, maintaining, or operating, or 39084
any combination of the foregoing, a township airport, landing 39085
field, or other air navigation facility pursuant to section 505.15 39086
of the Revised Code; 39087

(GG) For the payment of costs incurred by a township as a 39088
result of a contract made with a county pursuant to section 39089
505.263 of the Revised Code in order to pay all or any part of the 39090
cost of constructing, maintaining, repairing, or operating a water 39091
supply improvement; 39092

(HH) For a board of township trustees to acquire, other than 39093
by appropriation, an ownership interest in land, water, or 39094
wetlands, or to restore or maintain land, water, or wetlands in 39095
which the board has an ownership interest, not for purposes of 39096
recreation, but for the purposes of protecting and preserving the 39097
natural, scenic, open, or wooded condition of the land, water, or 39098
wetlands against modification or encroachment resulting from 39099
occupation, development, or other use, which may be styled as 39100
protecting or preserving "greenspace" in the resolution, notice of 39101
election, or ballot form; 39102

(II) For the support by a county of a crime victim assistance 39103
program that is provided and maintained by a county agency or a 39104
private, nonprofit corporation or association under section 307.62 39105
of the Revised Code; 39106

(JJ) For any or all of the purposes set forth in divisions 39107

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(I) and (J) of this section. This division applies only to a township.	39108 39109
(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties.	39110 39111 39112
(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code;	39113 39114
(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code;	39115 39116 39117
(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold agricultural fairs. This division applies only to a county.	39118 39119 39120
(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements, by a board of township trustees;	39121 39122 39123 39124 39125
(PP) For both of the purposes set forth in divisions (G) and (OO) of this section. This division applies only to a township.	39126 39127
(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township.	39128 39129
(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements.	39130 39131 39132 39133 39134
<u>(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county.</u>	39135 39136
The resolution shall be confined to the purpose or purposes	39137

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described in one division of this section, to which the revenue
derived therefrom shall be applied. The existence in any other
division of this section of authority to levy a tax for any part
or all of the same purpose or purposes does not preclude the use
of such revenues for any part of the purpose or purposes of the
division under which the resolution is adopted.

The resolution shall specify the amount of the increase in
rate that it is necessary to levy, the purpose of that increase in
rate, and the number of years during which the increase in rate
shall be in effect, which may or may not include a levy upon the
duplicate of the current year. The number of years may be any
number not exceeding five, except as follows:

(1) When the additional rate is for the payment of debt
charges, the increased rate shall be for the life of the
indebtedness.

(2) When the additional rate is for any of the following, the
increased rate shall be for a continuing period of time:

(a) For the current expenses for a detention home district, a
district organized under section 2151.65 of the Revised Code, or a
combined district organized under sections 2151.34 and 2151.65 of
the Revised Code;

(b) For providing a county's share of the cost of maintaining
and operating schools, district detention homes, forestry camps,
or other facilities, or any combination thereof, established under
section 2151.34 or 2151.65 of the Revised Code or under both of
those sections.

(3) When the additional rate is for any of the following, the
increased rate may be for a continuing period of time:

(a) For the purposes set forth in division (I), (J), (U), or
(KK) of this section;

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(b) For the maintenance and operation of a joint recreation district; 39168
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(c) A levy imposed by a township for the purposes set forth in division (G) of this section. 39170
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(4) When the increase is for the purpose set forth in division (D) or (CC) of this section or for both of the purposes set forth in divisions (G) and (OO) of this section, the tax levy may be for any specified number of years or for a continuing period of time, as set forth in the resolution. 39172
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(5) When the additional rate is for the purpose described in division (Z) of this section, the increased rate shall be for any number of years not exceeding ten. 39177
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A levy for the purposes set forth in division (I), (J), or (U) of this section, and a levy imposed by a township for the purposes set forth in division (G) of this section, may be reduced pursuant to section 5705.261 or 5705.31 of the Revised Code. A levy for the purposes set forth in division (I), (J), or (U) of this section, and a levy imposed by a township for the purposes set forth in division (G) of this section, may also be terminated or permanently reduced by the taxing authority if it adopts a resolution stating that the continuance of the levy is unnecessary and the levy shall be terminated or that the millage is excessive and the levy shall be decreased by a designated amount. 39180
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A resolution of a detention home district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under both sections 2151.34 and 2151.65 of the Revised Code may include both current expenses and other purposes, provided that the resolution shall apportion the annual rate of levy between the current expenses and the other purpose or purposes. The apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied 39191
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each year for the current expenses and the other purpose or
purposes shall be limited by the apportionment.

Whenever a board of county commissioners, acting either as
the taxing authority of its county or as the taxing authority of a
sewer district or subdistrict created under Chapter 6117. of the
Revised Code, by resolution declares it necessary to levy a tax in
excess of the ten-mill limitation for the purpose of constructing,
improving, or extending sewage disposal plants or sewage systems,
the tax may be in effect for any number of years not exceeding
twenty, and the proceeds of the tax, notwithstanding the general
provisions of this section, may be used to pay debt charges on any
obligations issued and outstanding on behalf of the subdivision
for the purposes enumerated in this paragraph, provided that any
such obligations have been specifically described in the
resolution.

The resolution shall go into immediate effect upon its
passage, and no publication of the resolution is necessary other
than that provided for in the notice of election.

When the electors of a subdivision have approved a tax levy
under this section, the taxing authority of the subdivision may
anticipate a fraction of the proceeds of the levy and issue
anticipation notes in accordance with section 5705.191 or 5705.193
of the Revised Code.

Sec. 5705.41. No subdivision or taxing unit shall:

(A) Make any appropriation of money except as provided in
Chapter 5705. of the Revised Code; provided, that the
authorization of a bond issue shall be deemed to be an
appropriation of the proceeds of the bond issue for the purpose
for which such bonds were issued, but no expenditure shall be made
from any bond fund until first authorized by the taxing authority;

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(B) Make any expenditure of money unless it has been 39229
appropriated as provided in such chapter; 39230

(C) Make any expenditure of money except by a proper warrant 39231
drawn against an appropriate fund; 39232

(D)(1) Except as otherwise provided in division (D)(2) of 39233
this section and section 5705.44 of the Revised Code, make any 39234
contract or give any order involving the expenditure of money 39235
unless there is attached thereto a certificate of the fiscal 39236
officer of the subdivision that the amount required to meet the 39237
obligation or, in the case of a continuing contract to be 39238
performed in whole or in part in an ensuing fiscal year, the 39239
amount required to meet the obligation in the fiscal year in which 39240
the contract is made, has been lawfully appropriated for such 39241
purpose and is in the treasury or in process of collection to the 39242
credit of an appropriate fund free from any previous encumbrances. 39243
This certificate need be signed only by the subdivision's fiscal 39244
officer. Every such contract made without such a certificate shall 39245
be void, and no warrant shall be issued in payment of any amount 39246
due thereon. If no certificate is furnished as required, upon 39247
receipt by the taxing authority of the subdivision or taxing unit 39248
of a certificate of the fiscal officer stating that there was at 39249
the time of the making of such contract or order and at the time 39250
of the execution of such certificate a sufficient sum appropriated 39251
for the purpose of such contract and in the treasury or in process 39252
of collection to the credit of an appropriate fund free from any 39253
previous encumbrances, such taxing authority may authorize the 39254
drawing of a warrant in payment of amounts due upon such contract, 39255
but such resolution or ordinance shall be passed within thirty 39256
days from the receipt of such certificate; provided that, if the 39257
amount involved is less than one hundred dollars in the case of 39258
counties or one thousand dollars in the case of all other 39259
subdivisions or taxing units, the fiscal officer may authorize it 39260

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to be paid without such affirmation of the taxing authority of the 39261
subdivision or taxing unit, if such expenditure is otherwise 39262
valid. 39263

(2) Annually, the board of county commissioners may adopt a 39264
resolution exempting for the current fiscal year county purchases 39265
of seven hundred fifty dollars or less from the requirement of 39266
division (D)(1) of this section that a certificate be attached to 39267
any contract or order involving the expenditure of money. The 39268
resolution shall state the dollar amount that is exempted from the 39269
certificate requirement and whether the exemption applies to all 39270
purchases, to one or more specific classes of purchases, or to the 39271
purchase of one or more specific items. Prior to the adoption of 39272
the resolution, the board shall give written notice to the county 39273
auditor that it intends to adopt the resolution. The notice shall 39274
state the dollar amount that is proposed to be exempted and 39275
whether the exemption would apply to all purchases, to one or more 39276
specific classes of purchases, or to the purchase of one or more 39277
specific items. The county auditor may review and comment on the 39278
proposal, and shall send any comments to the board within fifteen 39279
days after receiving the notice. The board shall wait at least 39280
fifteen days after giving the notice to the auditor before 39281
adopting the resolution. A person authorized to make a county 39282
purchase in a county that has adopted such a resolution shall 39283
prepare and file with the county auditor, within three business 39284
days after incurring an obligation not requiring a certificate, a 39285
written document specifying the purpose and amount of the 39286
expenditure, the date of the purchase, the name of the vendor, and 39287
such additional information as the auditor of state may prescribe. 39288

(3) Upon certification by the auditor or other chief fiscal 39289
officer that a certain sum of money, not in excess of five 39290
thousand dollars, has been lawfully appropriated, authorized, or 39291
directed for a certain purpose and is in the treasury or in the 39292

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process of collection to the credit of a specific line-item 39293
appropriation account in a certain fund free from previous and 39294
then outstanding obligations or certifications, then for such 39295
purpose and from such line-item appropriation account in such 39296
fund, over a period not exceeding three months and not extending 39297
beyond the end of the fiscal year, expenditures may be made, 39298
orders for payment issued, and contracts or obligations calling 39299
for or requiring the payment of money made and assumed; provided, 39300
that the aggregate sum of money included in and called for by such 39301
expenditures, orders, contracts, and obligations shall not exceed 39302
the sum so certified. Such a certification need be signed only by 39303
the fiscal officer of the subdivision or the taxing district and 39304
may, but need not, be limited to a specific vendor. An itemized 39305
statement of obligations incurred and expenditures made under such 39306
certificate shall be rendered to the auditor or other chief fiscal 39307
officer before another such certificate may be issued, and not 39308
more than one such certificate shall be outstanding at a time. 39309

In addition to providing the certification for expenditures 39310
of five thousand dollars or less as provided in this division, a 39311
subdivision also may make expenditures, issue orders for payment, 39312
and make contracts or obligations calling for or requiring the 39313
payment of money made and assumed for specified permitted purposes 39314
from a specific line-item appropriation account in a specified 39315
fund for a sum of money exceeding five thousand dollars upon the 39316
certification by the fiscal officer of the subdivision that this 39317
sum of money has been lawfully appropriated, authorized, or 39318
directed for a permitted purpose and is in the treasury or in the 39319
process of collection to the credit of the specific line-item 39320
appropriation account in the specified fund free from previous and 39321
then-outstanding obligations or certifications; provided that the 39322
aggregate sum of money included in and called for by the 39323
expenditures, orders, and obligations shall not exceed the 39324

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certified sum. The purposes for which a subdivision may lawfully
appropriate, authorize, or issue such a certificate are the
services of an accountant, architect, attorney at law, physician,
professional engineer, construction project manager, consultant,
surveyor, or appraiser by or on behalf of the subdivision or
contracting authority; fuel oil, gasoline, food items, roadway
materials, and utilities; and any purchases exempt from
competitive bidding under section 125.04 of the Revised Code and
any other specific expenditure that is a recurring and reasonably
predictable operating expense. Such a certification shall not
extend beyond the end of the fiscal year or, in the case of a
board of county commissioners that has established a quarterly
spending plan under section 5705.392 of the Revised Code, beyond
the quarter to which the plan applies. Such a certificate shall be
signed by the fiscal officer and may, but need not, be limited to
a specific vendor. An itemized statement of obligations incurred
and expenditures made under such a certificate shall be rendered
to the fiscal officer for each certificate issued. More than one
such certificate may be outstanding at any time.

In any case in which a contract is entered into upon a per
unit basis, the head of the department, board, or commission for
the benefit of which the contract is made shall make an estimate
of the total amount to become due upon such contract, which
estimate shall be certified in writing to the fiscal officer of
the subdivision. Such a contract may be entered into if the
appropriation covers such estimate, or so much thereof as may be
due during the current year. In such a case the certificate of the
fiscal officer based upon the estimate shall be a sufficient
compliance with the law requiring a certificate.

Any certificate of the fiscal officer attached to a contract
shall be binding upon the political subdivision as to the facts
set forth therein. Upon request of any person receiving an order

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or entering into a contract with any political subdivision, the
certificate of the fiscal officer shall be attached to such order
or contract. "Contract" as used in this section excludes current
payrolls of regular employees and officers.

Taxes and other revenue in process of collection, or the
proceeds to be derived from authorized bonds, notes, or
certificates of indebtedness sold and in process of delivery,
shall for the purpose of this section be deemed in the treasury or
in process of collection and in the appropriate fund. This section
applies neither to the investment of sinking funds by the trustees
of such funds, nor to investments made under sections 731.56 to
731.59 of the Revised Code.

No district authority shall, in transacting its own affairs,
do any of the things prohibited to a subdivision by this section,
but the appropriation referred to shall become the appropriation
by the district authority, and the fiscal officer referred to
shall mean the fiscal officer of the district authority.

Sec. 5705.44. When contracts or leases run beyond the
termination of the fiscal year in which they are made, the fiscal
officer of the taxing authority shall make a certification for the
amount required to meet the obligation of such contract or lease
maturing in such fiscal year. The amount of the obligation under
such contract or lease remaining unfulfilled at the end of a
fiscal year, and which will become payable during the next fiscal
year, shall be included in the annual appropriation measure for
the next year as a fixed charge.

The certificate required by section 5705.41 of the Revised
Code as to money in the treasury shall not be required for
contracts on which payments are to be made from the earnings of a
publicly operated water works or public utility, but in the case
of any such contract made without such certification, no payment

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shall be made on account thereof, and no claim or demand thereon 39388
shall be recoverable, except out of such earnings. That 39389
certificate also shall not be required if requiring the 39390
certificate makes it impossible for a county board of mental 39391
retardation and developmental disabilities to pay the nonfederal 39392
share of medicaid expenditures that the county board is required 39393
by division (A) of section 5126.056 of the Revised Code to pay. 39394

Sec. 5709.17. (A) Real estate held or occupied by an 39395
association or corporation, organized or incorporated under the 39396
laws of this state relative to soldiers' memorial associations, 39397
monumental building associations, or cemetery associations or 39398
corporations, which in the opinion of the trustees, directors, or 39399
managers thereof is necessary and proper to carry out the object 39400
intended for such association or corporation, shall be exempt from 39401
taxation. 39402

(B) Real estate and tangible personal property held or 39403
occupied by a war veterans' organization, which is organized 39404
exclusively for charitable purposes and incorporated under the 39405
laws of this state or the United States, except real estate held 39406
by such organization for the production of rental income, shall be 39407
exempt from taxation. 39408

(C) Tangible personal property held by a corporation 39409
chartered under 112 Stat. 1335, 36 U.S.C.A. 40701, described in 39410
section 501(c)(3) of the Internal Revenue Code, and exempt from 39411
taxation under section 501(a) of the Internal Revenue Code shall 39412
be exempt from taxation if it is surplus property obtained as 39413
described in 112 Stat. 1340, 36 U.S.C.A. 40730. 39414

Sec. 5721.30. As used in sections 5721.30 to 5721.42 of the 39415
Revised Code: 39416

(A) "Tax certificate," "certificate," or "duplicate" 39417

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certificate" means a document which may be issued as a physical
certificate, in book-entry form, or through an electronic medium,
at the discretion of the county treasurer. Such document shall
contain the information required by section 5721.31 of the Revised
Code and shall be prepared, transferred, or redeemed in the manner
prescribed by sections 5721.30 to 5721.41 of the Revised Code. As
used in those sections, "tax certificate," "certificate," and
"duplicate certificate" do not refer to the delinquent land tax
certificate or the delinquent vacant land tax certificate issued
under section 5721.13 of the Revised Code.

(B) "Certificate parcel" means the parcel of delinquent land
that is the subject of and is described in a tax certificate.

(C) "Certificate holder" means a person who purchases a tax
certificate under section 5721.32 or 5721.33 of the Revised Code,
or a person to whom a tax certificate has been transferred
pursuant to section 5721.36 of the Revised Code.

(D) "Certificate purchase price" means, with respect to the
sale of tax certificates under sections 5721.32 and 5721.33 of the
Revised Code, the amount equal to delinquent taxes, assessments,
penalties, and interest computed under section 323.121 of the
Revised Code charged against a certificate parcel at the time the
tax certificate respecting that parcel is sold, not including any
delinquent taxes, assessments, penalties, interest, and charges,
the lien for which has been conveyed to a certificate holder
through a prior sale of a tax certificate respecting that parcel;
provided, however, that payment of the certificate purchase price
in a sale under section 5721.33 of the Revised Code may be made
wholly in cash or partially in cash and partially by noncash
consideration acceptable to the county treasurer from the
purchaser. In the event that any such noncash consideration is
delivered to pay a portion of the certificate purchase price, such
noncash consideration may be subordinate to the rights of the

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holders of other obligations whose proceeds paid the cash portion 39450
of the certificate purchase price. 39451

"Certificate purchase price" also includes the amount of the 39452
fee charged by the county treasurer to the purchaser of the 39453
certificate under division (H) of section 5721.32 of the Revised 39454
Code. 39455

(E) With respect to a sale of tax certificates under section 39456
5721.32 of the Revised Code and except as provided in division 39457
(E)(3) of this section, "certificate redemption price" means the 39458
amount determined under division (E)(1) or (2) of this section. 39459

(1) During the first year after the date on which a tax 39460
certificate is sold, the sum of the following: 39461

(a) The certificate purchase price; 39462

(b) The greater of the following: 39463

(i) Interest, at the certificate rate of interest, accruing 39464
during the certificate interest period on the certificate purchase 39465
price; 39466

(ii) Six per cent of the certificate purchase price. 39467

(c) The fee charged by the county treasurer to the purchaser 39468
of the certificate under division (H) of section 5721.32 of the 39469
Revised Code. 39470

(2) After the first year after the date on which a tax 39471
certificate is sold, the sum of the following: 39472

(a)(i) If division (E)(1)(b)(i) applied during the first 39473
year, the certificate purchase price; 39474

(ii) If division (E)(1)(b)(ii) applied during the first year, 39475
the sum of the certificate purchase price plus six per cent of the 39476
certificate purchase price. 39477

(b)(i) If division (E)(1)(b)(i) applied during the first 39478

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year, interest at the certificate rate of interest accruing during 39479
the certificate interest period on the certificate purchase price; 39480

(ii) If division (E)(1)(b)(ii) applied during the first year, 39481
interest at the certificate rate of interest, accruing during the 39482
part of the certificate interest period that begins one year after 39483
the date of the sale of the certificate, on the sum of the 39484
certificate purchase price plus six per cent of the certificate 39485
purchase price. 39486

(c) The fee charged by the county treasurer to the purchaser 39487
of the certificate under division (H) of section 5721.32 of the 39488
Revised Code. 39489

(3) If the certificate rate of interest equals zero, the 39490
certificate redemption price equals the certificate purchase price 39491
plus the fee charged by the county treasurer to the purchaser of 39492
the certificate under division (H) of section 5721.32 of the 39493
Revised Code. 39494

(F) With respect to a sale of tax certificates under section 39495
5721.33 of the Revised Code, "certificate redemption price" means 39496
the amount equal to the sum of the following: 39497

(1) The certificate purchase price; 39498

(2) Interest accrued on the certificate purchase price at the 39499
certificate rate of interest from the date on which a tax 39500
certificate is delivered through and including the day immediately 39501
preceding the day on which the certificate redemption price is 39502
paid; 39503

(3) The fee, if any, charged by the county treasurer to the 39504
purchaser of the certificate under division (J) of section 5721.33 39505
of the Revised Code; 39506

(4) Any other fees charged by any county office in connection 39507
with the recording of tax certificates. 39508

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(G) "Certificate rate of interest" means the rate of simple interest per year bid by the winning bidder in an auction of a tax certificate held under section 5721.32 of the Revised Code, or the rate of simple interest per year not to exceed eighteen per cent per year fixed by the county treasurer with respect to any tax certificate sold pursuant to a negotiated sale under section 5721.33 of the Revised Code.

(H) "Cash" means United States currency, certified checks, money orders, bank drafts, or electronic transfer of funds, and excludes any other form of payment.

(I) "The date on which a tax certificate is sold," "the date the certificate was sold," "the date the certificate is purchased," and any other phrase of similar content mean, with respect to a sale pursuant to an auction under section 5721.32 of the Revised Code, the date designated by the county treasurer for the submission of bids and, with respect to a negotiated sale under section 5721.33 of the Revised Code, the date of delivery of the tax certificates to the purchasers thereof pursuant to a tax certificate sale/purchase agreement.

(J) "Purchaser of a tax certificate pursuant to section 5721.32 of the Revised Code" means the winning bidder in an auction of a tax certificate held under section 5721.32 of the Revised Code.

(K) "Certificate interest period" means, with respect to a tax certificate sold under section 5721.32 of the Revised Code, the period beginning on the date the certificate is purchased and, with respect to a tax certificate sold under section 5721.33 of the Revised Code, the period beginning on the date of delivery of the tax certificate, and in either case ending on one of the following dates:

(1) In the case of foreclosure proceedings instituted under

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section 5721.37 of the Revised Code, the date the certificate
holder submits a payment to the treasurer under division (B) of
that section;

(2) In the case of a certificate parcel redeemed under
division (A) or (C) of section 5721.38 of the Revised Code, the
date the owner of record of the certificate parcel, or any other
person entitled to redeem that parcel, pays to the county
treasurer or to the certificate holder, as applicable, the full
amount determined under that section.

(L) "County treasurer" means, with respect to the sale of tax
certificates under section 5721.32, or 5721.33 of the Revised
Code, the county treasurer of a county having a population of at
least two hundred thousand according to the then most recent
federal decennial census ~~and, with respect to the sale of tax
certificates under section 5721.33 of the Revised Code, the county
treasurer of a county having a population of at least one million
four hundred thousand according to the then most recent federal
decennial census.~~

(M) "Qualified trustee" means a trust company within the
state or a bank having the power of a trust company within the
state with a combined capital stock, surplus, and undivided
profits of at least one hundred million dollars.

(N) "Tax certificate sale/purchase agreement" means the
purchase and sale agreement described in division (C) of section
5721.33 of the Revised Code setting forth the certificate purchase
price, plus any applicable premium or less any applicable
discount, including, without limitation, the amount thereof to be
paid in cash and the amount and nature of any noncash
consideration, the date of delivery of the tax certificates, and
the other terms and conditions of the sale, including, without
limitation, the rate of interest that the tax certificates shall
bear.

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(O) "Noncash consideration" means any form of consideration 39572
other than cash, including, but not limited to, promissory notes 39573
whether subordinate or otherwise. 39574

(P) "Private attorney" means for purposes of section 5721.37 39575
of the Revised Code, any attorney licensed to practice law in this 39576
state, whether practicing with a firm of attorneys or otherwise, 39577
whose license has not been revoked or otherwise suspended and who 39578
brings foreclosure proceedings pursuant to section 5721.37 of the 39579
Revised Code on behalf of a certificate holder. 39580

(Q) "Related certificate parcel" means, with respect to a 39581
certificate holder, the certificate parcel with respect to which 39582
the certificate holder has purchased and holds a tax certificate 39583
pursuant to sections 5721.30 to 5721.41 of the Revised Code and, 39584
with respect to a tax certificate, the certificate parcel against 39585
which the tax certificate has been sold pursuant to those 39586
sections. 39587

Sec. 5725.31. (A) As used in this section: 39588

(1) "Eligible employee" and "eligible training costs" have 39589
the same meanings as in section 5733.42 of the Revised Code. 39590

(2) "Tax assessed under this chapter" means, in the case of a 39591
dealer in intangibles, the tax assessed under sections 5725.13 to 39592
5725.17 of the Revised Code and, in the case of a domestic 39593
insurance company, the taxes assessed under sections 5725.18 to 39594
5725.26 of the Revised Code. 39595

(3) "Taxpayer" means a dealer in intangibles or a domestic 39596
insurance company subject to a tax assessed under this chapter. 39597

(4) "Credit period" means, in the case of a dealer in 39598
intangibles, the calendar year ending on the thirty-first day of 39599
December next preceding the day the report is required to be 39600
returned under section 5725.14 of the Revised Code and, in the 39601

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case of a domestic insurance company, the calendar year ending on 39602
the thirty-first day of December next preceding the day the annual 39603
statement is required to be returned under section 5725.18 or 39604
5725.181 of the Revised Code. 39605

(B) There is hereby allowed a nonrefundable credit against 39606
the tax imposed under this chapter for a taxpayer for which a tax 39607
credit certificate is issued under section 5733.42 of the Revised 39608
Code. The credit may be claimed for credit periods beginning on or 39609
after January 1, ~~2001~~ 2003, and ending on or before December 31, 39610
~~2003~~ 2005. The amount of the credit shall equal one-half of the 39611
average of the eligible training costs paid or incurred by the 39612
taxpayer during the three calendar years ~~immediately preceding~~ 39613
ending with end of the credit period for which the credit is 39614
claimed, not to exceed one thousand dollars for each eligible 39615
employee on account of whom eligible training costs were paid or 39616
incurred by the taxpayer. The credit claimed by a taxpayer each 39617
credit period shall not exceed one hundred thousand dollars. 39618

If, on or before June 30, 2001, a taxpayer had properly filed 39619
an application for the credit period ending on December 31, 2001, 39620
or December 31, 2002, as provided in division (C) of section 39621
5733.42 of the Revised Code, the director of job and family 39622
services may authorize a credit for that credit period subject to 39623
the limitations and requirements of this section and section 39624
5733.42 of the Revised Code, but the tax credit certificate issued 39625
for that period may be applied only to the taxpayer's tax 39626
liability for business done in this state during calendar year 39627
2003. The credit claimed by such a taxpayer shall be computed in 39628
the manner prescribed by this section; is subject to the 39629
limitations of this section on the amount of the credit for each 39630
eligible employee and for each credit period; and shall be in 39631
addition to any credit claimed by the taxpayer under this section 39632
for the credit period beginning January 1, 2003, and, for the 39633

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purpose of the limitation on the amount of the credit that may be 39634
claimed by a taxpayer for a credit period, the credit claimed for 39635
the credit period ending on December 31, 2001, or December 31, 39636
2002, shall not be considered as being claimed for the credit 39637
period beginning on January 1, 2003. 39638

A taxpayer shall apply to the director of job and family 39639
services for a tax credit certificate in the manner prescribed by 39640
division (C) of section 5733.42 of the Revised Code. Divisions (C) 39641
to (H) of that section govern the tax credit allowed by this 39642
section, except that "credit period" shall be substituted for "tax 39643
year with respect to a calendar year" wherever that phrase appears 39644
in those divisions and that a taxpayer under this section shall be 39645
considered a taxpayer for the purposes of that section. 39646

A taxpayer may carry forward the credit allowed under this 39647
section to the extent that the credit exceeds the taxpayer's tax 39648
due for the credit period. The taxpayer may carry the excess 39649
credit forward for three credit periods following the credit 39650
period for which the credit is first claimed under this section. 39651
The credit allowed by this section is in addition to any credit 39652
allowed under section 5729.031 of the Revised Code. 39653

Sec. 5727.25. (A) Except as provided in division (B) of this 39654
section, within forty-five days after the last day of March, June, 39655
September, and December, each natural gas company or combined 39656
company subject to the excise tax imposed by section 5727.24 of 39657
the Revised Code shall file a return with the ~~treasurer of state~~ 39658
tax commissioner, in such form as the tax commissioner prescribes, 39659
and pay the full amount of the tax due on its taxable gross 39660
receipts for the preceding calendar quarter, except that the first 39661
payment of this tax shall be made on or before November 15, 2000, 39662
for the five-month period of May 1, 2000, to September 30, 2000. 39663
All payments made under this division shall be made by electronic 39664

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funds transfer in accordance with section 5727.311 of the Revised Code. 39665
39666

(B) Any natural gas company or combined company subject to 39667
the excise tax imposed by this section that has an annual tax 39668
liability for the preceding calendar year ending on the 39669
thirty-first day of December of less than three hundred 39670
twenty-five thousand dollars may elect to file an annual return 39671
with the ~~treasurer of state~~ tax commissioner, in such form as the 39672
tax commissioner prescribes, for the next year. A company that 39673
elects to file an annual return for the calendar year shall file 39674
the return and remit the taxes due on its taxable gross receipts 39675
within forty-five days after the thirty-first day of December. The 39676
first payment of the tax under this division shall be made on or 39677
before February 14, 2001, for the period of May 1, 2000, to 39678
December 31, 2000. The minimum tax for a natural gas company or 39679
combined company subject to this division shall be fifty dollars, 39680
and the company shall not be required to remit the tax due by 39681
electronic funds transfer. 39682

(C) A return required to be filed under division (A) or (B) 39683
of this section shall show the amount of tax due from the company 39684
for the period covered by the return and any other information as 39685
prescribed by the tax commissioner. A return shall be considered 39686
filed when received by the ~~treasurer of state~~ tax commissioner. 39687
The commissioner may extend the time for making and filing returns 39688
and paying the tax. 39689

(D) Any natural gas company or combined company that fails to 39690
file a return or pay the full amount of the tax due within the 39691
period prescribed under this section shall pay an additional 39692
charge of fifty dollars or ten per cent of the tax required to be 39693
paid for the reporting period, whichever is greater. If any tax 39694
due is not paid timely in accordance with this section, the 39695
company liable for the tax shall pay interest, calculated at the 39696

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rate per annum prescribed by section 5703.47 of the Revised Code, 39697
from the date the tax payment was due to the date of payment or to 39698
the date an assessment was issued, whichever occurs first. The tax 39699
commissioner may collect any additional charge or interest imposed 39700
by this section by assessment in the manner provided in section 39701
5727.26 of the Revised Code. The commissioner may abate all or a 39702
portion of the additional charge and may adopt rules governing 39703
such abatements. 39704

(E) The tax commissioner shall immediately forward to the 39705
treasurer of state any amounts that the commissioner receives 39706
under this section. The taxes, additional charges, penalties, and 39707
interest collected under sections 5727.24 to 5727.29 of the 39708
Revised Code shall be credited in accordance with section 5727.45 39709
of the Revised Code. 39710

Sec. 5727.26. (A) The tax commissioner may make an 39711
assessment, based on any information in the commissioner's 39712
possession, against any natural gas company or combined company 39713
that fails to file a return or pay any tax, interest, or 39714
additional charge as required by sections 5727.24 to 5727.29 of 39715
the Revised Code. The commissioner shall give the company assessed 39716
written notice of the assessment as provided in section 5703.37 of 39717
the Revised Code. A penalty of up to fifteen per cent may be added 39718
to all amounts assessed under this section. The tax commissioner 39719
may adopt rules providing for the imposition and remission of the 39720
penalty. 39721

(B) If a party to whom the notice of assessment is directed 39722
objects to the assessment, the party may file a petition for 39723
reassessment with the tax commissioner. The petition must be made 39724
in writing, signed by the party or the party's authorized agent 39725
having knowledge of the facts, and filed with the commissioner, 39726
either personally or by certified mail, within sixty days after 39727

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service of the notice of assessment. The petition shall indicate
the objections of the company assessed, but additional objections
may be raised in writing if received prior to the date shown on
the final determination of the commissioner. Upon receipt of a
properly filed petition, the commissioner ~~shall~~ may notify the
treasurer of state.

Unless the petitioner waives a hearing, the commissioner
shall grant the petitioner a hearing on the petition, assign a
time and place for the hearing, and notify the petitioner of the
time and place of the hearing as provided in section 5703.37 of
the Revised Code. The commissioner may continue the hearing from
time to time, if necessary.

If the party to whom the notice of assessment is directed
does not file a petition for reassessment, the assessment is final
and the amount of the assessment is due and payable from the
company assessed ~~to the treasurer of state. The company assessed~~
shall make the payment payable to the treasurer of state and shall
deliver the payment to the tax commissioner.

(C) The tax commissioner may make any correction to the
assessment that the commissioner finds proper and shall issue a
final determination thereon. The commissioner shall serve a copy
of the final determination on the petitioner as provided in
section 5703.37 of the Revised Code, and the commissioner's
decision in the matter is final, subject to appeal under section
5717.02 of the Revised Code. The commissioner ~~also shall~~ may
transmit a copy of the final determination to the treasurer of
state. 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 an
amount paid pursuant to the assessment.

(D) After an assessment becomes final, if any portion of the
assessment, including accrued interest, remains unpaid, a

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certified copy of the tax commissioner's entry making the
assessment final may be filed in the office of the clerk of the
court of common pleas in the county in which the natural gas
company's or combined company's principal place of business is
located, or in the office of the clerk of court of common pleas of
Franklin county.

The clerk, immediately on the filing of the entry, must enter
judgment for the state against the company assessed in the amount
shown on the entry. The judgment may be filed by the clerk in a
loose-leaf book entitled, "special judgments for the public
utility excise tax on natural gas and combined companies," and
shall have the same effect as other judgments. Execution shall
issue upon the judgment at the request of the tax commissioner,
and all laws applicable to sales on execution shall apply to sales
made under the judgment.

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

(E) If the tax commissioner believes that collection of the
tax will be jeopardized unless proceedings to collect or secure
collection of the tax are instituted without delay, the
commissioner may issue a jeopardy assessment against the person
liable for the tax. On issuance of the jeopardy assessment, the
commissioner immediately shall file an entry with the clerk of the
court of common pleas in the manner prescribed by division (D) of
this section. Notice of the jeopardy assessment shall be served on
the party assessed or the party's legal representative as provided
in section 5703.37 of the Revised Code within five days of the

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filing of the entry with the clerk. The total amount assessed is
 immediately due and payable, unless the person assessed files a
 petition for reassessment in accordance with division (B) of this
 section and provides security in a form satisfactory to the
 commissioner and in an amount sufficient to satisfy the unpaid
 balance of the assessment. Full or partial payment of the
 assessment does not prejudice the commissioner's consideration of
 the petition for reassessment.

(F) ~~All interest collected by the~~ The tax commissioner shall
immediately forward to the treasurer of state all amounts that the
tax commissioner receives under this section ~~shall be paid to the~~
~~treasurer of state, and when paid such amounts~~ shall be considered
 revenue arising from the tax imposed by section 5727.24 of the
 Revised Code.

(G) No assessment shall be made or issued against a natural
 gas company or combined company for the tax imposed by section
 5727.24 of the Revised Code more than four years after the return
 date for the period in which the tax was reported, or more than
 four years after the return for the period was filed, whichever is
 later.

Sec. 5727.81. (A) For the purpose of raising revenue for
 public education and state and local government operations, an
 excise tax is hereby levied and imposed on an electric
 distribution company for all electricity distributed by such
 company beginning with the measurement period that includes May 1,
 2001, at the following rates per kilowatt hour of electricity
 distributed in a thirty-day period by the company through a meter
 of an end user in this state:

KILOWATT HOURS DISTRIBUTED TO	RATE PER	
AN END USER	KILOWATT HOUR	
For the first 2,000	\$.00465	

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For the next 2,001 to 15,000	\$.00419	39823
For 15,001 and above	\$.00363	39824

If no meter is used to measure the kilowatt hours of
electricity distributed by the company, the rates shall apply to
the estimated kilowatt hours of electricity distributed to an
unmetered location in this state.

The electric distribution company shall base the monthly tax
on the kilowatt hours of electricity distributed to an end user
through the meter of the end user that is not measured for a
thirty-day period by dividing the days in the measurement period
into the total kilowatt hours measured during the measurement
period to obtain a daily average usage. The tax shall be
determined by obtaining the sum of divisions (A)(1), (2), and (3)
of this section and multiplying that amount by the number of days
in the measurement period:

(1) Multiplying \$0.00465 per kilowatt hour for the first
sixty-seven kilowatt hours distributed using a daily average;

(2) Multiplying \$0.00419 for the next sixty-eight to five
hundred kilowatt hours distributed using a daily average;

(3) Multiplying \$0.00363 for the remaining kilowatt hours
distributed using a daily average.

Except as provided in division (C) of this section, the
electric distribution company shall pay the tax to the ~~treasurer~~
~~of state~~ tax commissioner in accordance with section 5727.82 of
the Revised Code, unless required to remit each tax payment by
electronic funds transfer to the treasurer of state in accordance
with section 5727.83 of the Revised Code.

Only the distribution of electricity through a meter of an
end user in this state shall be used by the electric distribution
company to compute the amount or estimated amount of tax due. In
the event a meter is not actually read for a measurement period,

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the estimated kilowatt hours distributed by an electric
distribution company to bill for its distribution charges shall be
used.

(B) Except as provided in division (C) of this section, each
electric distribution company shall pay the tax imposed by this
section in all of the following circumstances:

(1) The electricity is distributed by the company through a
meter of an end user in this state;

(2) The company is distributing electricity through a meter
located in another state, but the electricity is consumed in this
state in the manner prescribed by the tax commissioner;

(3) The company is distributing electricity in this state
without the use of a meter, but the electricity is consumed in
this state as estimated and in the manner prescribed by the tax
commissioner.

(C)(1) As used in division (C) of this section:

(a) "Total price of electricity" means the aggregate value in
money of anything paid or transferred, or promised to be paid or
transferred, to obtain electricity or electric service, including
but not limited to the value paid or promised to be paid for the
transmission or distribution of electricity and for transition
costs as described in Chapter 4928. of the Revised Code.

(b) "Package" means the provision or the acquisition, at a
combined price, of electricity with other services or products, or
any combination thereof, such as natural gas or other fuels;
energy management products, software, and services; machinery and
equipment acquisition; and financing agreements.

(c) "Single location" means a facility located on contiguous
property separated only by a roadway, railway, or waterway.

(2) Division (C) of this section applies to any commercial or

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industrial purchaser's receipt of electricity through a meter of
an end user in this state or through more than one meter at a
single location in this state in a quantity that exceeds
forty-five million kilowatt hours of electricity over the course
of the preceding calendar year, or any commercial or industrial
purchaser that will consume more than forty-five million kilowatt
hours of electricity over the course of the succeeding twelve
months as estimated by the tax commissioner. The tax commissioner
shall make such an estimate upon the written request by an
applicant for registration as a self-assessing purchaser under
this division. Such a purchaser may elect to self-assess the
excise tax imposed by this section at the rate of \$.00075 per
kilowatt hour on ~~not more than~~ the first five hundred four million
kilowatt hours distributed to that meter or location during the
registration year, and four per cent of the total price of all
electricity distributed to that meter or location. A qualified end
user that receives electricity through a meter of an end user in
this state or through more than one meter at a single location in
this state and that consumes, over the course of the previous
calendar year, more than forty-five million kilowatt hours in
other than its qualifying manufacturing process, may elect to
self-assess the tax as allowed by this division with respect to
the electricity used in other than its qualifying manufacturing
process. Payment of the tax shall be made directly to the tax
commissioner in accordance with divisions (A)(4) and (5) of
section 5727.82 of the Revised Code, or the treasurer of state in
accordance with ~~divisions (A)(4) and (5) of section 5727.82~~
5727.83 of the Revised Code. If the electric distribution company
serving the self-assessing purchaser is a municipal electric
utility and the purchaser is within the municipal corporation's
corporate limits, payment shall be made to such municipal
corporation's general fund and reports shall be filed in
accordance with divisions (A)(4) and (5) of section 5727.82 of the

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Revised Code, except that "municipal corporation" shall be 39917
substituted for "treasurer of state" and "tax commissioner." A 39918
self-assessing purchaser that pays the excise tax as provided in 39919
this division shall not be required to pay the tax to the electric 39920
distribution company from which its electricity is distributed. If 39921
a self-assessing purchaser's receipt of electricity is not subject 39922
to the tax as measured under this division, the tax on the receipt 39923
of such electricity shall be measured and paid as provided in 39924
division (A) of this section. 39925

(3) In the case of the acquisition of a package, unless the 39926
elements of the package are separately stated isolating the total 39927
price of electricity from the price of the remaining elements of 39928
the package, the tax imposed under this section applies to the 39929
entire price of the package. If the elements of the package are 39930
separately stated, the tax imposed under this section applies to 39931
the total price of the electricity. 39932

(4) Any electric supplier that sells electricity as part of a 39933
package shall separately state to the purchaser the total price of 39934
the electricity and, upon request by the tax commissioner, the 39935
total price of each of the other elements of the package. 39936

(5) The tax commissioner may adopt rules relating to the 39937
computation of the total price of electricity with respect to 39938
self-assessing purchasers, which may include rules to establish 39939
the total price of electricity purchased as part of a package. 39940

(6) ~~Application~~ An annual application for registration as a 39941
self-assessing purchaser shall be made for each qualifying meter 39942
or location, on a form prescribed by the tax commissioner. The 39943
registration year begins on the first day of may and ends on the 39944
following thirtieth day of April. Persons may apply after the 39945
first day of May for the remainder of the registration year. In 39946
the case of an applicant applying on the basis of an estimated 39947
consumption of forty-five million kilowatt hours over the course 39948

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of the succeeding twelve months, the applicant shall provide such 39949
information as the tax commissioner considers to be necessary to 39950
estimate such consumption. At the time of making the application 39951
and by the first day of May of each year, excluding May 1, 2000, a 39952
self-assessing purchaser shall pay a fee of five hundred dollars 39953
to the tax commissioner, or to the treasurer of state as provided 39954
in section 5727.83 of the Revised Code, for each qualifying meter 39955
or location. The tax commissioner shall immediately pay to the 39956
treasurer of state all amounts that the tax commissioner receives 39957
under this section. The treasurer of state shall deposit such ~~fees~~ 39958
amounts into the kilowatt hour excise tax administration fund, 39959
which is hereby created in the state treasury. Money in the fund 39960
shall be used to defray the tax commissioner's cost in 39961
administering the tax owed under section 5727.81 of the Revised 39962
Code by self-assessing purchasers. After the application is 39963
approved by the tax commissioner, the registration shall remain in 39964
effect for the current registration year, or until canceled by the 39965
registrant upon written notification to the commissioner of the 39966
election to pay the tax in accordance with division (A) of this 39967
section, or until canceled by the tax commissioner for not paying 39968
the tax or fee under division (C) of this section, or for not 39969
meeting the qualifications in division (C)(2) of this section. The 39970
tax commissioner shall give written notice to the electric 39971
distribution company from which electricity is delivered to a 39972
self-assessing purchaser of the purchaser's self-assessing status, 39973
and the electric distribution company is relieved of the 39974
obligation to pay the tax imposed by division (A) of this section 39975
for electricity distributed to that self-assessing purchaser until 39976
it is notified by the tax commissioner that the self-assessing 39977
purchaser's registration is canceled. Within fifteen days of 39978
notification of the canceled registration, the electric 39979
distribution company shall be responsible for payment of the tax 39980
imposed by division (A) of this section on electricity distributed 39981

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to a purchaser that is no longer registered as a self-assessing 39982
purchaser. A self-assessing purchaser with a canceled registration 39983
must file a report and remit the tax imposed by division (A) of 39984
this section on all electricity it receives for any measurement 39985
period prior to the tax being reported and paid by the electric 39986
distribution company. A self-assessing purchaser whose 39987
registration is canceled by the tax commissioner is not eligible 39988
to register as a self-assessing purchaser for two years after the 39989
registration is canceled. 39990

(7) If the tax commissioner cancels the self-assessing 39991
registration of a purchaser registered on the basis of its 39992
estimated consumption because the purchaser does not consume at 39993
least forty-five million kilowatt hours of electricity over the 39994
course of the twelve-month period for which the estimate was made, 39995
the tax commissioner shall assess and collect from the purchaser 39996
the difference between (a) the amount of tax that would have been 39997
payable under division (A) of this section on the electricity 39998
distributed to the purchaser during that period and (b) the amount 39999
of tax paid by the purchaser on such electricity pursuant to 40000
division (C)(2)(a) of this section. The assessment shall be paid 40001
within sixty days after the tax commissioner issues it, regardless 40002
of whether the purchaser files a petition for reassessment under 40003
section 5727.89 of the Revised Code covering that period. If the 40004
purchaser does not pay the assessment within the time prescribed, 40005
the amount assessed is subject to the additional charge and the 40006
interest prescribed by divisions (B) and (C) of section 5727.82 of 40007
the Revised Code, and is subject to assessment under section 40008
5727.89 of the Revised Code. If the purchaser is a qualified end 40009
user, division (C)(7) of this section applies only to electricity 40010
it consumes in other than its qualifying manufacturing process. 40011

(D) The tax imposed by this section does not apply to the 40012
distribution of any kilowatt hours of electricity to the federal 40013

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government, to an end user located at a federal facility that uses
 electricity for the enrichment of uranium, to a qualified
 regeneration meter, or to an end user for any day the end user is
 a qualified end user. The exemption under this division for a
 qualified end user only applies to the manufacturing location
 where the qualified end user uses more than three million kilowatt
 hours per day in a qualifying manufacturing process.

Sec. 5727.811. (A) For the purpose of raising revenue for
 public education and state and local government operations, an
 excise tax is hereby levied on every natural gas distribution
 company for all natural gas volumes billed by, or on behalf of,
 the company ~~on and after~~ beginning with the measurement period
that includes July 1, 2001. Except as provided in divisions (C) or
 (D) of this section, the tax shall be levied at the following
 rates per MCF of natural gas distributed by the company through a
 meter of an end user in this state:

MCF DISTRIBUTED TO AN END USER	RATE PER MCF	
For the first 100 MCF per month	\$.1593	
For the next 101 to 2000 MCF per month	\$.0877	
For 2001 and above MCF per month	\$.0411	

If no meter is used to measure the MCF of natural gas
 distributed by the company, the rates shall apply to the estimated
 MCF of natural gas distributed to an unmetered location in this
 state.

(B) A natural gas distribution company shall base the tax on
 the MCF of natural gas distributed to an end user through the
 meter of the end user in this state that is estimated to be
 consumed by the end user as reflected on the end user's customer
 statement from the natural gas distribution company. The natural
 gas distribution company shall pay the tax levied by this section
 to the ~~treasurer of state~~ tax commissioner in accordance with

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section 5727.82 of the Revised Code unless required to remit 40045
payment to the treasurer of state in accordance with section 40046
5727.83 of the Revised Code. 40047

(C) A natural gas distribution company with fifty thousand 40048
customers or less may elect to apply the rates specified in 40049
division (A) of this section to the aggregate of the natural gas 40050
distributed by the company through the meter of all its customers 40051
in this state, and upon such election, this method shall be used 40052
to determine the amount of tax to be paid by such company. 40053

(D) A natural gas distribution company shall pay the tax 40054
imposed by this section at the rate of \$.02 per MCF of natural gas 40055
distributed by the company through the meter of a flex customer. 40056
The natural gas distribution company correspondingly shall reduce 40057
the per MCF rate that it charges the flex customer for natural gas 40058
distribution services by \$.02 per MCF of natural gas distributed 40059
to the flex customer. 40060

(E) Except as provided in division (F) of this section, each 40061
natural gas distribution company shall pay the tax imposed by this 40062
section in all of the following circumstances: 40063

(1) The natural gas is distributed by the company through a 40064
meter of an end user in this state; 40065

(2) The natural gas distribution company is distributing 40066
natural gas through a meter located in another state, but the 40067
natural gas is consumed in this state in the manner prescribed by 40068
the tax commissioner; 40069

(3) The natural gas distribution company is distributing 40070
natural gas in this state without the use of a meter, but the 40071
natural gas is consumed in this state as estimated and in the 40072
manner prescribed by the tax commissioner. 40073

(F) The tax levied by this section does not apply to the 40074
distribution of natural gas to the federal government, or natural 40075

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gas produced by an end user in this state that is consumed by that 40076
end user or its affiliates and is not distributed through the 40077
facilities of a natural gas company. 40078

Sec. 5727.82. (A)(1) Except as provided in divisions (A)(3) 40079
and (D) of this section, by the twentieth day of each month, each 40080
electric distribution company required to pay the tax imposed by 40081
section 5727.81 of the Revised Code shall file with the ~~treasurer~~ 40082
~~of state~~ tax commissioner a return as prescribed by the tax 40083
commissioner and shall make payment of the full amount of tax due 40084
for the preceding month. The first payment of this tax shall be 40085
made on or before June 20, 2001. The electric distribution company 40086
shall make payment to the tax commissioner unless required to 40087
remit each tax payment by electronic funds transfer to the 40088
treasurer of state as provided in section 5727.83 of the Revised 40089
Code. 40090

(2) By the twentieth day of May, August, November, and 40091
February, each natural gas distribution company required to pay 40092
the tax imposed by section 5727.81 of the Revised Code shall file 40093
with the ~~treasurer of state~~ tax commissioner a return as 40094
prescribed by the tax commissioner and shall make payment to the 40095
tax commissioner, or to the treasurer of state as provided in 40096
section 5727.83 of the Revised Code, of the full amount of tax due 40097
for the preceding quarter. The first payment of this tax shall be 40098
made on or before November 20, 2001, for the quarter ending 40099
September 30, 2001. 40100

(3) If the electric distribution company required to pay the 40101
tax imposed by section 5727.81 of the Revised Code is a municipal 40102
electric utility, it may retain in its general fund that portion 40103
of the tax on the kilowatt hours distributed to end users located 40104
within the boundaries of the municipal corporation. However, the 40105
municipal electric utility shall make payment in accordance with 40106

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division (A)(1) of this section of the tax due on the kilowatt
hours distributed to end users located outside the boundaries of
the municipal corporation.

(4) By the twentieth day of each month, each self-assessing
purchaser that under division (C) of section 5727.81 of the
Revised Code pays directly to the tax commissioner or the
treasurer of state the tax imposed by section 5727.81 of the
Revised Code shall file with the ~~treasurer of state tax~~
commissioner a return as prescribed by the tax commissioner and
shall make payment of the full amount of the tax due for the
preceding month.

(5) As prescribed by the tax commissioner, a return shall be
signed by the company or self-assessing purchaser required to file
it, or an authorized employee, officer, or agent of the company or
purchaser. ~~The treasurer of state shall mark on the return the
date it was received and indicate payment or nonpayment of the tax
shown to be due on the return. The treasurer of state immediately
shall transmit all returns to the tax commissioner.~~ The return
shall be deemed filed when received by the ~~treasurer of state tax~~
commissioner.

(B) Any natural gas distribution company, electric
distribution company, or self-assessing purchaser required by this
section to file a return who fails to file it and pay the tax
within the period prescribed shall pay an additional charge of
fifty dollars or ten per cent of the tax required to be paid for
the reporting period, whichever is greater. The tax commissioner
may collect the additional charge by assessment pursuant to
section 5727.89 of the Revised Code. The commissioner may abate
all or a portion of the additional charge and may adopt rules
governing such abatements.

(C) If any tax due is not paid timely in accordance with this
section, the natural gas distribution company, electric

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distribution company, or self-assessing purchaser liable for the
tax shall pay interest, calculated at the rate per annum
prescribed by section 5703.47 of the Revised Code, from the date
the tax payment was due to the date of payment or to the date an
assessment is issued, whichever occurs first. Interest shall be
paid in the same manner as the tax, and the commissioner may
collect the interest by assessment pursuant to section 5727.89 of
the Revised Code.

(D) Not later than the tenth day of each month, a qualified
end user not making the election to self-assess under division (C)
of section 5727.81 of the Revised Code shall report in writing to
the electric distribution company that distributes electricity to
the end user the kilowatt hours that were consumed as a qualified
end user in a qualifying manufacturing process for the prior month
and the number of days, if any, on which the end user was not a
qualified end user. For each calendar day during that month, a
qualified end user shall report the kilowatt hours that were not
used in a qualifying manufacturing process. For each calendar day
the end user was not a qualified end user, the end user shall
report in writing to the electric distribution company the total
number of kilowatt hours used on that day, and the electric
distribution company shall pay the tax imposed under section
5727.81 of the Revised Code on each kilowatt hour that was not
distributed to a qualified end user in a qualifying manufacturing
process. The electric distribution company may rely in good faith
on a qualified end user's report filed under this division. If it
is determined that the end user was not a qualified end user for
any calendar day or the quantity of electricity used by the
qualified end user in a qualifying manufacturing process was
overstated, the tax commissioner shall assess and collect any tax
imposed under section 5727.81 of the Revised Code directly from
the qualified end user. As requested by the commissioner, each end

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user reporting to an electric distribution company that it is a
qualified end user shall provide documentation to the commissioner
that establishes the volume of electricity consumed daily by the
qualified end user and the total number of kilowatt hours consumed
in a qualifying manufacturing process.

(E) The tax commissioner shall immediately pay to the
treasurer of state all amounts that the tax commissioner receives
under this section. The treasurer of state shall credit such
amounts in accordance with this chapter.

Sec. 5727.84. (A) As used in this section and sections
5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted
village school district.

(2) "Joint vocational school district" means a joint
vocational school district created under section 3311.16 of the
Revised Code, and includes a cooperative education school district
created under section 3311.52 or 3311.521 of the Revised Code and
a county school financing district created under section 3311.50
of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit,
as defined in section 5705.01 of the Revised Code, a park district
created under Chapter 1545. of the Revised Code, or a township
park district established under section 511.23 of the Revised
Code, but excludes school districts and joint vocational school
districts.

(4) "State education aid" means the sum of ~~the state basic
aid and state special education~~ aid amounts computed for a school
district or joint vocational school district ~~under divisions (A)
and (C) of section 3317.022 Chapter 3317.~~ of the Revised Code.

(5) "State education aid offset" means the amount certified

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for each school district under division (A)(1) of section 5727.85 40201
of the Revised Code. 40202

(6) "~~Adjusted total taxable value~~ Recognized valuation" has 40203
the same meaning as in section 3317.02 of the Revised Code. 40204

(7) "Electric company tax value loss" means the amount 40205
determined under division (D) of this section. 40206

(8) "Natural gas company tax value loss" means the amount 40207
determined under division (E) of this section. 40208

(9) "Tax value loss" means the sum of the electric company 40209
tax value loss and the natural gas company tax value loss. 40210

(10) "Fixed-rate levy" means any tax levied on property other 40211
than a fixed-sum levy. 40212

(11) "Fixed-rate levy loss" means the amount determined under 40213
division (G) of this section. 40214

(12) "Fixed-sum levy" means a tax levied on property at 40215
whatever rate is required to produce a specified amount of tax 40216
money or to pay debt charges, and includes school district 40217
emergency levies imposed pursuant to section 5705.194 of the 40218
Revised Code. 40219

(13) "Fixed-sum levy loss" means the amount determined under 40220
division (H) of this section. 40221

(14) "Consumer price index" means the consumer price index 40222
(all items, all urban consumers) prepared by the bureau of labor 40223
statistics of the United States department of labor. 40224

(B) All money arising from the tax imposed by section 5727.81 40225
of the Revised Code shall be credited as follows: 40226

(1) Fifty-nine and nine hundred seventy-six one-thousandths 40227
per cent, plus an amount equal to seventy per cent of the total 40228
state education aid offset, shall be credited to the general 40229

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revenue fund. 40230

(2) Two and six hundred forty-six one-thousandths per cent 40231
shall be credited to the local government fund, for distribution 40232
in accordance with section 5747.50 of the Revised Code. 40233

(3) Three hundred seventy-eight one-thousandths per cent 40234
shall be credited to the local government revenue assistance fund, 40235
for distribution in accordance with section 5747.61 of the Revised 40236
Code. 40237

(4) Twenty-five and nine-tenths per cent, less an amount 40238
equal to seventy per cent of the total state education aid offset, 40239
shall be credited to the school district property tax replacement 40240
fund, which is hereby created in the state treasury for the 40241
purpose of making the payments described in section 5727.85 of the 40242
Revised Code. 40243

(5) Eleven and one-tenth per cent shall be credited to the 40244
local government property tax replacement fund, which is hereby 40245
created in the state treasury for the purpose of making the 40246
payments described in section 5727.86 of the Revised Code. 40247

(6) Beginning in the fiscal year in which payments are 40248
required to be made under sections 5727.85 and 5727.86 of the 40249
Revised Code, if the revenue arising from the tax levied by 40250
section 5727.81 of the Revised Code is less than five hundred 40251
fifty-two million dollars, the amount credited to the general 40252
revenue fund under division (B)(1) of this section shall be 40253
reduced by the amount necessary to credit to each of the funds in 40254
divisions (B)(2), (3), (4), and (5) of this section the amount it 40255
would have received if the tax did raise five hundred fifty-two 40256
million dollars for that fiscal year. The tax commissioner shall 40257
certify to the director of budget and management the amounts that 40258
shall be credited under this division. 40259

(C) All money arising from the tax imposed by section 40260

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5727.811 of the Revised Code shall be credited as follows: 40261

(1) Seventy per cent, less an amount equal to thirty per cent 40262
of the total state education aid offset, shall be credited to the 40263
school district property tax replacement fund for the purpose of 40264
making the payments described in section 5727.85 of the Revised 40265
Code. 40266

(2) Thirty per cent shall be credited to the local government 40267
property tax replacement fund for the purpose of making the 40268
payments described in section 5727.86 of the Revised Code. 40269

(3) An amount equal to thirty per cent of the total state 40270
education aid offset shall be credited to the general revenue 40271
fund. 40272

(4) Beginning in the fiscal year in which payments are 40273
required to be made under sections 5727.85 and 5727.86 of the 40274
Revised Code, if the revenue arising from the tax levied by 40275
section 5727.811 of the Revised Code is less than ninety million 40276
dollars, the amount credited to the general revenue fund under 40277
division (C)(3) of this section shall be reduced by the amount 40278
necessary to credit to each of the funds in divisions (C)(1) and 40279
(2) of this section the amount that it would have received if the 40280
tax did raise ninety million dollars for that fiscal year. The tax 40281
commissioner shall certify to the director of budget and 40282
management the amounts that shall be credited under this division. 40283

(D) Not later than January 1, 2002, the tax commissioner 40284
shall determine for each taxing district its electric company tax 40285
value loss, which is the sum of the amounts described in divisions 40286
(D)(1) and (2) of this section: 40287

(1) The difference obtained by subtracting the amount 40288
described in division (D)(1)(b) from the amount described in 40289
division (D)(1)(a) of this section. 40290

(a) The value of electric company and rural electric company 40291

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tangible personal property as assessed by the tax commissioner for 40292
tax year 1998 on a preliminary assessment, or an amended 40293
preliminary assessment if issued prior to March 1, 1999, and as 40294
apportioned to the taxing district for tax year 1998; 40295

(b) The value of electric company and rural electric company 40296
tangible personal property as assessed by the tax commissioner for 40297
tax year 1998 had the property been apportioned to the taxing 40298
district for tax year 2001, and assessed at the rates in effect 40299
for tax year 2001. 40300

(2) The difference obtained by subtracting the amount 40301
described in division (D)(2)(b) from the amount described in 40302
division (D)(2)(a) of this section. 40303

(a) The three-year average for tax years 1996, 1997, and 1998 40304
of the assessed value from nuclear fuel materials and assemblies 40305
assessed against a person under Chapter 5711. of the Revised Code 40306
from the leasing of them to an electric company for those 40307
respective tax years, as reflected in the preliminary assessments; 40308
40309

(b) The three-year average assessed value from nuclear fuel 40310
materials and assemblies assessed under division (D)(2)(a) of this 40311
section for tax years 1996, 1997, and 1998, as reflected in the 40312
preliminary assessments, using an assessment rate of twenty-five 40313
per cent. 40314

(E) Not later than January 1, 2002, the tax commissioner 40315
shall determine for each taxing district its natural gas company 40316
tax value loss, which is the sum of the amounts described in 40317
divisions (E)(1) and (2) of this section: 40318

(1) The difference obtained by subtracting the amount 40319
described in division (E)(1)(b) from the amount described in 40320
division (E)(1)(a) of this section. 40321

(a) The value of all natural gas company tangible personal 40322

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property, other than property described in division (E)(2) of this
section, as assessed by the tax commissioner for tax year 1999 on
a preliminary assessment, or an amended preliminary assessment if
issued prior to March 1, 2000, and apportioned to the taxing
district for tax year 1999;

(b) The value of all natural gas company tangible personal
property, other than property described in division (E)(2) of this
section, as assessed by the tax commissioner for tax year 1999 had
the property been apportioned to the taxing district for tax year
2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by
subtracting the amount described in division (E)(2)(b) from the
amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as
assessed by the tax commissioner for tax years 1997, 1998, and
1999 on a preliminary assessment, or an amended preliminary
assessment if issued prior to March 1, 2001, and as apportioned in
the taxing district for those respective years;

(b) The three-year average assessed value from current gas
under division (E)(2)(a) of this section for tax years 1997, 1998,
and 1999, as reflected in the preliminary assessment, using an
assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas
companies, electric companies, and rural electric companies file a
report to help determine the tax value loss under divisions (D)
and (E) of this section. The report shall be filed within thirty
days of the commissioner's request. A company that fails to file
the report or does not timely file the report is subject to the
penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner
shall determine for each school district, joint vocational school

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district, and local taxing unit its fixed-rate levy loss, which is 40354
the sum of its electric company tax value loss multiplied by the 40355
tax rate in effect in tax year 1998 for fixed-rate levies and its 40356
natural gas company tax value loss multiplied by the tax rate in 40357
effect in tax year 1999 for fixed-rate levies. 40358

(H) Not later than January 1, 2002, the tax commissioner 40359
shall determine for each school district, joint vocational school 40360
district, and local taxing unit its fixed-sum levy loss, which is 40361
the amount obtained by subtracting the amount described in 40362
division (H)(2) of this section from the amount described in 40363
division (H)(1) of this section: 40364

(1) The sum of the electric company tax value loss multiplied 40365
by the tax rate in effect in tax year 1998, and the natural gas 40366
company tax value loss multiplied by the tax rate in effect in tax 40367
year 1999, for fixed-sum levies for all taxing districts within 40368
each school district, joint vocational school district, and local 40369
taxing unit. For the years 2002 through 2006, this computation 40370
shall include school district emergency levies that existed in 40371
1998 in the case of the electric company tax value loss, and 1999 40372
in the case of the natural gas company tax value loss, and all 40373
other fixed-sum levies that existed in 1998 in the case of the 40374
electric company tax value loss and 1999 in the case of the 40375
natural gas company tax value loss and continue to be charged in 40376
the tax year preceding the distribution year. For the years 2007 40377
through 2016 in the case of school district emergency levies, and 40378
for all years after 2006 in the case of all other fixed-sum 40379
levies, this computation shall exclude all fixed-sum levies that 40380
existed in 1998 in the case of the electric company tax value loss 40381
and 1999 in the case of the natural gas company tax value loss, 40382
but are no longer in effect in the tax year preceding the 40383
distribution year. For the purposes of this section, an emergency 40384
levy that existed in 1998 in the case of the electric company tax 40385

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value loss, and 1999 in the case of the natural gas company tax 40386
value loss, continues to exist in a year beginning on or after 40387
January 1, 2007, but before January 1, 2017, if, in that year, the 40388
board of education levies a school district emergency levy for an 40389
annual sum at least equal to the annual sum levied by the board in 40390
tax year 1998 or 1999, respectively, less the amount of the 40391
payment certified under this division for 2002. 40392

(2) The total taxable value in tax year 1998 in the case of 40393
the electric company tax value loss and 1999 in the case of the 40394
natural gas company tax value loss in each school district, joint 40395
vocational school district, and local taxing unit multiplied by 40396
one-fourth of one mill. 40397

If the amount computed under division (H) of this section for 40398
any school district, joint vocational school district, or local 40399
taxing unit is greater than zero, that amount shall equal the 40400
fixed-sum levy loss reimbursed pursuant to division (E) of section 40401
5727.85 of the Revised Code or division (A)(2) of section 5727.86 40402
of the Revised Code, and the one-fourth of one mill that is 40403
subtracted under division (H)(2) of this section shall be 40404
apportioned among all contributing fixed-sum levies in the 40405
proportion of each levy to the sum of all fixed-sum levies within 40406
each school district, joint vocational school district, or local 40407
taxing unit. 40408

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 40409
section, in computing the tax value loss, fixed-rate levy loss, 40410
and fixed-sum levy loss, the tax commissioner shall use the 40411
greater of the 1998 tax rate or the 1999 tax rate in the case of 40412
levy losses associated with the electric company tax value loss, 40413
but the 1999 tax rate shall not include for this purpose any tax 40414
levy approved by the voters after June 30, 1999, and the tax 40415
commissioner shall use the greater of the 1999 or the 2000 tax 40416
rate in the case of levy losses associated with the natural gas 40417

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company tax value loss, but the 2000 tax rate shall not include 40418
for this purpose any tax levy approved by the voters after 40419
November 7, 2000. 40420

(J) Not later than January 1, 2002, the tax commissioner 40421
shall certify to the department of education the tax value loss 40422
determined under divisions (D) and (E) of this section for each 40423
taxing district. 40424

Sec. 5727.85. (A) By the thirty-first day of July of each 40425
year, beginning in 2002 and ending in 2016, the department of 40426
education shall determine the following for each school district 40427
eligible for payment under division (C) of this section: 40428

(1) The state education aid offset, which is the difference 40429
obtained by subtracting the amount described in division (A)(1)(b) 40430
of this section from the amount described in division (A)(1)(a) of 40431
this section: 40432

(a) The state education aid computed for the school district 40433
for the current fiscal year on the basis of ~~the adjusted total~~ 40434
~~taxable value~~ recognized valuation; 40435

(b) The state education aid that would be computed for the 40436
school district for the current fiscal year if the district's 40437
~~adjusted total taxable value~~ recognized valuation included the tax 40438
value loss for all taxing districts in the school district. 40439

(2) The difference obtained by subtracting the state 40440
education aid offset determined under division (A)(1) of this 40441
section from the fixed-rate levy loss determined under division 40442
(G) of section 5727.84 of the Revised Code for all taxing 40443
districts in each school district. The department of education 40444
shall certify the amount so determined to the director of budget 40445
and management. 40446

(B) Not later than the thirty-first day of October of the 40447

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years 2006 through 2016, the department of education shall 40448
determine all of the following for each school district: 40449

(1) The amount obtained by subtracting the district's state 40450
education aid computed for fiscal year 2002 from the district's 40451
state education aid computed for the current fiscal year; 40452

(2) The inflation-adjusted property tax loss. The 40453
inflation-adjusted property tax loss equals the fixed-rate levy 40454
loss determined under division (G) of section 5727.84 of the 40455
Revised Code for all taxing districts in each school district plus 40456
the product obtained by multiplying that loss by the cumulative 40457
percentage increase in the consumer price index from January 1, 40458
2002, to the thirtieth day of June of the current year. 40459

(3) The difference obtained by subtracting the amount 40460
computed under division (B)(1) from the amount of the 40461
inflation-adjusted property tax loss. If this difference is zero 40462
or a negative number, no further payments shall be made under 40463
division (C) of this section to the school district from the 40464
school district property tax replacement fund. If the difference 40465
is greater than zero, the department of education shall certify 40466
the amount calculated in division (A)(2) of this section to the 40467
director of budget and management not later than the thirty-first 40468
day of December of each year, beginning in 2006 and ending in 40469
2016. 40470

(C) For all taxing districts in each school district, the 40471
director of budget and management shall pay from the school 40472
district property tax replacement fund to the county undivided 40473
income tax fund in the proper county treasury all of the 40474
following: 40475

(1) In February 2002, one-half of the fixed-rate levy loss 40476
certified under division (G) of section 5727.84 of the Revised 40477
Code on or before the day prescribed for the settlement under 40478

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division (A) of section 321.24 of the Revised Code.

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(2) From August 2002 through August 2006, one-half of the amount certified for that fiscal year under division (A)(2) of this section on or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code.

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(3) From February 2007 through August 2016, one-half of the amount certified for that calendar year under division (B)(3) of this section on or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code.

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The county treasurer shall distribute amounts paid under divisions (C)(1), (2), and (3) of this section to the proper school district as if they had been levied and collected as taxes, and the school district shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

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(D) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the director of budget and management the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 to August 2016, the director shall pay from the school district property tax replacement fund to the county undivided income tax fund in the proper county treasury, one-half of the fixed-rate levy loss so certified for each year on or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code. The county treasurer shall distribute such amounts to the proper joint vocational school district as if they had been levied and collected as taxes, and the joint vocational school district shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied

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and collected as taxes. 40511

(E)(1) Not later than January 1, 2002, for each fixed-sum 40512
levy levied by each school district or joint vocational school 40513
district and for each year for which a determination is made under 40514
division (H) of section 5727.84 of the Revised Code that a 40515
fixed-sum levy loss is to be reimbursed, the tax commissioner 40516
shall certify to the director of budget and management the 40517
fixed-sum levy loss determined under that division. The 40518
certification shall cover a time period sufficient to include all 40519
fixed-sum levies for which the tax commissioner made such a 40520
determination. The director shall pay from the school district 40521
property tax replacement fund to the county undivided income tax 40522
fund in the proper county treasury one-half of the fixed-sum levy 40523
loss so certified for each year on or before each of the days 40524
prescribed for the settlements under divisions (A) and (C) of 40525
section 321.24 of the Revised Code. The county treasurer shall 40526
distribute the amounts to the proper school district or joint 40527
vocational school district as if they had been levied and 40528
collected as taxes, and the district shall apportion the amounts 40529
so received among its funds in the same proportions as if those 40530
amounts had been levied and collected as taxes. 40531

(2) Beginning in 2003, by the thirty-first day of January of 40532
each year, the tax commissioner shall review the certification 40533
originally made under division (E)(1) of this section. If the 40534
commissioner determines that a fixed-sum levy that had been 40535
scheduled to be reimbursed in the current year has expired, a 40536
revised certification for that and all subsequent years shall be 40537
made to the director of budget and management. 40538

(F) By August 5, 2002, the tax commissioner shall estimate 40539
the amount of money in the school district property tax 40540
replacement fund in excess of the amount necessary to make 40541
payments in that month under divisions (C), (D), and (E) of this 40542

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section. Notwithstanding division (C) of this section, the
department of education, in consultation with the tax commissioner
and from those excess funds, may pay any school district four and
one-half times the amount certified under division (A)(2) of this
section. Payments shall be made in order from the smallest annual
loss to the largest annual loss. A payment made under this
division shall be in lieu of the payment to be made in August 2002
under division (C)(2) of this section. No payments shall be made
in the manner established in this division to any school district
with annual losses from permanent improvement fixed-rate levies in
excess of twenty thousand dollars, or annual losses from any other
fixed-rate levies in excess of twenty thousand dollars. A school
district receiving a payment under this division is no longer
entitled to any further payments under division (C) of this
section.

(G) On the thirty-first day of July of 2003, 2004, 2005, and
2006, and on the thirty-first day of January and July of 2007 and
each year thereafter, if the amount credited to the school
district property tax replacement fund exceeds the amount needed
to make payments from the fund under divisions (C), (D), and (E)
of this section in the following month, the director of budget and
management shall distribute the excess among school districts and
joint vocational school districts. The amount distributed to each
district shall bear the same proportion to the excess remaining in
the fund as the ADM of the district bears to the ADM of all of the
districts. For the purpose of this division, "ADM" means the
formula ADM in the case of a school district, and the average
daily membership reported under section 3317.03 of the Revised
Code in the case of a joint vocational school district.

If, in the opinion of the director of budget and management,
the excess remaining in the school district property tax
replacement fund in any year is not sufficient to warrant

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distribution under this division, the excess shall remain to the
credit of the fund.

Amounts received by a school district or joint vocational
school district under this division shall be used exclusively for
capital improvements.

(H) If the total amount in the school district property tax
replacement fund is insufficient to make all payments under
divisions (C), (D), and (E) of this section, the payments required
under division (E) of this section shall be made first in their
entirety. After all payments are made under division (E) of this
section, payments under divisions (C) and (D) of this section
shall be made from the balance of money available in the
proportion of each school district's or joint vocational school
district's payment amount to the total amount of payments under
divisions (C) and (D) of this section.

(I) If all or a part of the territory of a school district or
joint vocational school district is merged with or transferred to
another district, the tax commissioner shall adjust the payments
made under this section to each of the districts in proportion to
the tax value loss apportioned to the merged or transferred
territory.

(J) There is hereby created the public utility property tax
study committee, effective January 1, 2011. The committee shall
consist of the following seven members: the tax commissioner,
three members of the senate appointed by the president of the
senate, and three members of the house of representatives
appointed by the speaker of the house of representatives. The
appointments shall be made not later than January 31, 2011. The
tax commissioner shall be the chairperson of the committee.

The committee shall study the extent to which each school
district or joint vocational school district has been compensated,

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under sections 5727.84 and 5727.85 of the Revised Code as enacted
by Substitute Senate Bill No. 3 of the 123rd general assembly and
any subsequent acts, for the property tax loss caused by the
reduction in the assessment rates for natural gas, electric, and
rural electric company tangible personal property. Not later than
June 30, 2011, the committee shall issue a report of its findings,
including any recommendations for providing additional
compensation for the property tax loss or regarding remedial
legislation, to the president of the senate and the speaker of the
house of representatives, at which time the committee shall cease
to exist.

The department of taxation and department of education shall
provide such information and assistance as is required for the
committee to carry out its duties.

Sec. 5728.08. Except as provided in section 5728.03 of the
Revised Code and except as otherwise provided in this section,
whoever is liable for the payment of the tax levied by section
5728.06 of the Revised Code, on or before the last day of each
January, April, July, and October, shall file with the ~~treasurer~~
~~of state~~ tax commissioner, on forms prescribed by the tax
commissioner, a highway use tax return and make payment of the
full amount of the tax due for the operation of each commercial
car and commercial tractor for the next preceding three calendar
months. If the commercial cars or commercial tractors are farm
trucks and the amount of motor fuel used to operate the trucks
during the next preceding twelve calendar months was less than
fifteen thousand gallons, the highway use tax return shall be
filed and the full amount of tax due paid on or before the last
day of each July for the next preceding twelve calendar months. If
the commercial cars or commercial tractors are farm trucks and the
amount of motor fuel used to operate the trucks during the next
preceding twelve calendar months was fifteen thousand gallons or

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more, the highway use tax return shall be filed and the full
amount of the tax due paid either on or before the last day of
each July for the next preceding twelve calendar months, or on or
before the last day of each January, April, July, and October for
the next preceding three calendar months, at the option of the
person liable for payment of the tax. If the commercial cars or
commercial tractors are not farm trucks, and if, in the estimation
of the tax commissioner, the amount of the tax due does not
warrant quarterly filing, the commissioner may authorize the
filing of the highway use tax return and payment of the full
amount due on or before the last day of each July for the next
preceding twelve months.

~~Immediately upon the receipt of a highway use tax return, the
treasurer of state shall mark on the return the date it was
received by the treasurer of state and the amount of tax payment
accompanying the return and shall transmit the return to the~~ The
tax commissioner shall immediately forward to the treasurer of
state all money received from the tax levied by section 5728.06 of
the Revised Code.

The treasurer of state shall place to the credit of the tax
refund fund created by section 5703.052 of the Revised Code, out
of receipts from the taxes levied by section 5728.06 of the
Revised Code, amounts equal to the refund certified by the tax
commissioner pursuant to section 5728.061 of the Revised Code.
Receipts from the tax shall be used by the tax commissioner to
defray expenses incurred by the department of taxation in
administering sections 5728.01 to 5728.14 of the Revised Code.

All moneys received in the state treasury from taxes levied
by section 5728.06 of the Revised Code and fees assessed under
sections 5728.02 and 5728.03 of the Revised Code which are not
required to be placed to the credit of the tax refund fund as
provided by this section shall, during each calendar year, be

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credited to the highway improvement bond retirement fund created
by section 5528.12 of the Revised Code until the commissioners of
the sinking fund certify to the treasurer of state, as required by
section 5528.17 of the Revised Code, that there are sufficient
moneys to the credit of the highway improvement bond retirement
fund to meet in full all payments of interest, principal, and
charges for the retirement of bonds and other obligations issued
pursuant to Section 2g of Article VIII, Ohio Constitution, and
sections 5528.10 and 5528.11 of the Revised Code due and payable
during the current calendar year and during the next succeeding
calendar year. From the date of the receipt of the certification
required by section 5528.17 of the Revised Code by the treasurer
of state until the thirty-first day of December of the calendar
year in which the certification is made, all moneys received in
the state treasury from taxes levied under section 5728.06 of the
Revised Code and fees assessed under sections 5728.02 and 5728.03
of the Revised Code which are not required to be placed to the
credit of the tax refund fund as provided by this section shall be
credited to the highway obligations bond retirement fund created
by section 5528.32 of the Revised Code until the commissioners of
the sinking fund certify to the treasurer of state, as required by
section 5528.38 of the Revised Code, that there are sufficient
moneys to the credit of the highway obligations bond retirement
fund to meet in full all payments of interest, principal, and
charges for the retirement of bonds and other obligations issued
pursuant to Section 2i of Article VIII, Ohio Constitution, and
sections 5528.30 and 5528.31 of the Revised Code due and payable
during the current calendar year and during the next succeeding
calendar year. From the date of the receipt of the certification
required by section 5528.38 of the Revised Code by the treasurer
of state until the thirty-first day of December of the calendar
year in which the certification is made, all moneys received in
the state treasury from taxes levied under section 5728.06 of the

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Revised Code and fees assessed under sections 5728.02 and 5728.03
of the Revised Code which are not required to be placed to the
credit of the tax refund fund as provided by this section shall be
credited to the highway operating fund created by section 5735.291
of the Revised Code, except as provided by the next succeeding
paragraph of this section.

From the date of the receipt by the treasurer of state of
certifications from the commissioners of the sinking fund, as
required by sections 5528.18 and 5528.39 of the Revised Code,
certifying that the moneys to the credit of the highway
improvement bond retirement fund are sufficient to meet in full
all payments of interest, principal, and charges for the
retirement of all bonds and other obligations which may be issued
pursuant to Section 2g of Article VIII, Ohio Constitution, and
sections 5528.10 and 5528.11 of the Revised Code, and to the
credit of the highway obligations bond retirement fund are
sufficient to meet in full all payments of interest, principal,
and charges for the retirement of all obligations issued pursuant
to Section 2i of Article VIII, Ohio Constitution, and sections
5528.30 and 5528.31 of the Revised Code, all moneys received in
the state treasury from the taxes levied under section 5728.06 and
fees assessed under sections 5728.02 and 5728.03 of the Revised
Code, which are not required to be placed to the credit of the tax
refund fund as provided by this section, shall be deposited to the
credit of the highway operating fund.

As used in this section, "farm truck" means any commercial
car or commercial tractor that is registered as a farm truck under
Chapter 4503. of the Revised Code.

Sec. 5729.07. As used in this section:

(A) "Eligible employee" and "eligible training costs" have
the same meanings as in section 5733.42 of the Revised Code.

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(B) "Credit period" means the calendar year ending on the
thirty-first day of December next preceding the day the annual
statement is required to be returned under section 5729.02 of the
Revised Code.

There is hereby allowed a nonrefundable credit against the
tax imposed under this chapter for a foreign insurance company for
which a tax credit certificate is issued under section 5733.42 of
the Revised Code. The credit may be claimed for credit periods
beginning on or after January 1, ~~2001~~ 2003, and ending on or
before December 31, ~~2003~~ 2005. The amount of the credit shall
equal one-half of the average of the eligible training costs paid
or incurred by the company during the three calendar years
~~immediately preceding~~ ending with the end of the credit period for
which the credit is claimed, not to exceed one thousand dollars
for each eligible employee on account of whom eligible training
costs were paid or incurred by the company. The credit claimed by
a company for each credit period shall not exceed one hundred
thousand dollars.

If, on or before June 30, 2001, a company had properly filed
an application for the credit period ending on December 31, 2001,
or December 31, 2002, as provided in division (C) of section
5733.42 of the Revised Code, the director of job and family
services may authorize a credit for that credit period subject to
the limitations and requirements of this section and section
5733.42 of the Revised Code, but the tax credit certificate issued
for that period may be applied only to the company's tax liability
for business done in this state during calendar year 2003. The
credit claimed by such a company shall be computed in the manner
prescribed by this section; is subject to the limitations of this
section on the amount of the credit for each eligible employee and
for each credit period; and shall be in addition to any credit
claimed by the company under this section for the credit period

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beginning on January 1, 2003, and, for the purpose of the
limitation on the amount of the credit that may be claimed by a
company for a credit period, the credit claimed for the credit
period ending on December 31, 2001, or December 31, 2002, shall
not be considered as being claimed for the credit period beginning
on January 1, 2003.

A foreign insurance company shall apply to the director of
job and family services for a tax credit certificate in the manner
prescribed by division (C) of section 5733.42 of the Revised Code.
Divisions (C) to (H) of that section govern the tax credit allowed
by this section, except that "credit period" shall be substituted
for "tax year with respect to a calendar year" wherever that
phrase appears in those divisions and that the company shall be
considered a taxpayer for the purposes of those divisions.

A foreign insurance company may carry forward the credit
allowed under this section to the extent that the credit exceeds
the company's tax due for the credit period. The company may carry
the excess credit forward for three credit periods following the
credit period for which the credit is first claimed under this
section. The credit allowed by this section is in addition to any
credit allowed under section 5729.031 of the Revised Code.

The reduction in the tax due under this chapter to the extent
of the credit allowed by this section does not increase the amount
of the tax otherwise due under section 5729.06 of the Revised
Code.

Sec. 5731.21. (A)(1)(a) Except as provided under division
(A)(3) of this section, the executor or administrator, or, if no
executor or administrator has been appointed, another person in
possession of property the transfer of which is subject to estate
taxes under section 5731.02 or division (A) of section 5731.19 of
the Revised Code, shall file an estate tax return, within nine

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months of the date of the decedent's death, in the form prescribed 40797
by the tax commissioner, in duplicate, with the probate court of 40798
the county. The return shall include all property the transfer of 40799
which is subject to estate taxes, whether that property is 40800
transferred under the last will and testament of the decedent or 40801
otherwise. The time for filing the return may be extended by the 40802
tax commissioner. 40803

(b) The estate tax return described in division (A)(1)(a) of 40804
this section shall be accompanied by a certificate, in the form 40805
prescribed by the tax commissioner, that is signed by the 40806
executor, administrator, or other person required to file the 40807
return, and that states all of the following: 40808

(i) The fact that the return was filed; 40809

(ii) The date of the filing of the return; 40810

(iii) The fact that the estate taxes under section 5731.02 or 40811
division (A) of section 5731.19 of the Revised Code, that are 40812
shown to be due in the return, have been paid in full; 40813

(iv) If applicable, the fact that real property listed in the 40814
inventory for the decedent's estate is included in the return; 40815

(v) If applicable, the fact that real property not listed in 40816
the inventory for the decedent's estate, including, but not 40817
limited to, survivorship tenancy property as described in section 40818
5302.17 of the Revised Code or transfer on death property as 40819
described in sections 5302.22 and 5302.23 of the Revised Code, 40820
also is included in the return. In this regard, the certificate 40821
additionally shall describe that real property by the same 40822
description used in the return. 40823

(2) The probate court shall forward one copy of the estate 40824
tax return described in division (A)(1)(a) of this section to the 40825
tax commissioner. 40826

(3) A person may, but shall not be required to, file a return 40827

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under division (A) of this section if the decedent was a resident
of this state and the value of the decedent's gross estate is
twenty-five thousand dollars or less in the case of a decedent
dying on or after July 1, 1968, but before January 1, 2001; two
hundred thousand dollars or less in the case of a decedent dying
on or after January 1, 2001, but before January 1, 2002; or three
hundred thirty-eight thousand three hundred thirty-three dollars
or less in the case of a decedent dying on or after January 1,
2002. If a probate court issues an order that grants a summary
release from administration in connection with a decedent's estate
under section 2113.031 of the Revised Code, that order eliminates
the duty of all persons to file an estate tax return and
certificate under divisions (A)(1)(a) and (b) of this section with
respect to the estate for which the order was granted.

(4)(a) Upon receipt of the estate tax return described in
division (A)(1)(a) of this section and the accompanying
certificate described in division (A)(1)(b) of this section, the
probate court promptly shall give notice of the return, by a form
prescribed by the tax commissioner, to the county auditor. The
auditor then shall make a charge based upon the notice and shall
certify a duplicate of the charge to the county treasurer. The
treasurer then shall collect, subject to division (A) of section
5731.25 of the Revised Code or any other statute extending the
time for payment of an estate tax, the tax so charged.

(b) Upon receipt of the return and the accompanying
certificate, the probate court also shall forward the certificate
to the auditor. When satisfied that the estate taxes under section
5731.02 or division (A) of section 5731.19 of the Revised Code,
that are shown to be due in the return, have been paid in full,
the auditor shall stamp the certificate so forwarded to verify
that payment. The auditor then shall return the stamped

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certificate to the probate court.

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(5)(a) The certificate described in division (A)(1)(b) of this section is a public record subject to inspection and copying in accordance with section 149.43 of the Revised Code. It shall be kept in the records of the probate court pertaining to the decedent's estate and is not subject to the confidentiality provisions of section 5731.90 of the Revised Code.

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(b) All persons are entitled to rely on the statements contained in a certificate as described in division (A)(1)(b) of this section if it has been filed in accordance with that division, forwarded to a county auditor and stamped in accordance with division (A)(4) of this section, and placed in the records of the probate court pertaining to the decedent's estate in accordance with division (A)(5)(a) of this section. The real property referred to in the certificate shall be free of, and may be regarded by all persons as being free of, any lien for estate taxes under section 5731.02 and division (A) of section 5731.19 of the Revised Code.

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(B) An estate tax return filed under this section, in the form prescribed by the tax commissioner, and showing that no estate tax is due shall result in a determination that no estate tax is due, if the tax commissioner within three months after the receipt of the return by the department of taxation, fails to file exceptions to the return in the probate court of the county in which the return was filed. A copy of exceptions to a return of that nature, when the tax commissioner files them within that period, shall be sent by ordinary mail to the person who filed the return. The tax commissioner is not bound under this division by a determination that no estate tax is due, with respect to property not disclosed in the return.

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(C) If the executor, administrator, or other person required to file an estate tax return fails to file it within nine months

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of the date of the decedent's death, the tax commissioner may
determine the estate tax in that estate and issue a certificate of
determination in the same manner as is provided in division (B) of
section 5731.27 of the Revised Code. A certificate of
determination of that nature has the same force and effect as
though a return had been filed and a certificate of determination
issued with respect to the return.

Sec. 5733.02. Annually, between the first day of January and
the thirty-first day of March or on or before the date as extended
under section 5733.13 of the Revised Code, each taxpayer shall
make a report in writing to the ~~treasurer of state tax~~
commissioner in such form as the tax commissioner prescribes, and
shall remit to the ~~treasurer of state~~ commissioner, with the
remittance made payable to the treasurer of state, the amount of
the tax as shown to be due by such report less the amount paid for
the year on a declaration of estimated tax report filed by the
taxpayer as provided by section 5733.021 of the Revised Code.
Remittance shall be made in the form prescribed by the ~~treasurer~~
~~of state~~ commissioner, including electronic funds transfer if
required by section 5733.022 of the Revised Code. ~~The treasurer~~
~~shall show on the report the date it was filed and the amount of~~
~~the payment remitted to the treasurer. Thereafter, the treasurer~~
~~shall immediately transmit all reports filed under this section to~~
~~the tax commissioner.~~

The commissioner shall furnish corporations, on request,
copies of the forms prescribed by the commissioner for the purpose
of making such report. A domestic corporation shall not dissolve,
and a foreign corporation shall not withdraw or retire from
business in Ohio, on or after the first day of January in any year
without making a franchise tax report to the commissioner and
paying or securing the tax charged for the year in which such
dissolution or withdrawal occurs.

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The annual corporation report shall be signed by the president, vice-president, secretary, treasurer, general manager, superintendent, or managing agent in this state of such corporation. If a domestic corporation has not completed its organization, its annual report shall be signed by one of its incorporators.

The report shall contain the facts, figures, computations, and attachments that result in the tax charged by this chapter and determined in the manner provided within the chapter.

Sec. 5733.021. (A) Each taxpayer which does not in the month of January file the report and make the payment required by section 5733.02 of the Revised Code shall make and file a declaration of estimated tax report for the tax year.

The declaration of estimated tax report shall be filed with the ~~treasurer of state~~ tax commissioner on or before the last day of January in such form as prescribed by the tax commissioner, and shall reflect an estimate of the total amount due under this chapter for the tax year.

(B) A taxpayer required to file a declaration of estimated tax report shall make remittance of such estimated tax to the ~~treasurer of state~~ tax commissioner as follows:

(1) The entire estimated tax at the time of filing the declaration of estimated tax report, if such estimated tax is not in excess of the minimum tax as provided in section 5733.06 of the Revised Code;

(2) If the estimated tax is in excess of the minimum tax:

(a) One-third of the estimated tax at the time of filing the declaration of estimated tax report;

(b) Two-thirds of the estimated tax on or before the last day of March of the tax year, unless the report and payment required

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by section 5733.02 of the Revised Code ~~is~~ are filed and paid on or
before the last day of March of the tax year~~+~~.

(3) If the estimated tax due is in excess of the minimum tax,
and an extension of time for filing the report required by section
5733.02 of the Revised Code has been granted pursuant to section
5733.13 of the Revised Code~~+~~:

(a) One-third of the estimated tax at the time of filing the
declaration of estimated tax report;

(b) One-third of the estimated tax on or before the last day
of March of the tax year;

(c) One-third of the estimated tax on or before the last day
of May of the tax year, unless the report and payments required by
section 5733.02 of the Revised Code are filed and paid on or
before the last day of May of the tax year.

Remittance of the estimated tax shall be made payable to the
treasurer of state and shall be made in the form prescribed by the
~~treasurer of state tax commissioner~~, including electronic funds
transfer if required by section 5733.022 of the Revised Code.

The tax commissioner shall immediately forward to the
treasurer of state all amounts received under this section, and
the treasurer of state shall credit all payments of such estimated
tax as provided in section 5733.12 of the Revised Code, ~~shall show~~
~~on all reports the date each was filed and the amount of payment~~
~~remitted, and shall immediately transmit all reports filed under~~
~~this section to the tax commissioner.~~

Sec. 5733.053. (A) As used in this section:

(1) "Transfer" means a transaction or series of related
transactions in which a corporation directly or indirectly
transfers or distributes substantially all of its assets or equity
to another corporation, if the transfer or distribution qualifies

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for nonrecognition of gain or loss under the Internal Revenue 40984
Code. 40985

(2) "Transferor" means a corporation that has made a 40986
transfer. 40987

(3) "Transferee" means a corporation that received 40988
substantially all of the assets or equity of a transferor in a 40989
transfer. 40990

(B) ~~For~~ Except as provided in division (F) of this section, 40991
for purposes of valuing its issued and outstanding shares of stock 40992
under division (B) of section 5733.05 of the Revised Code, a 40993
transferee shall add to its net income allocated or apportioned to 40994
this state its transferor's net income allocated or apportioned to 40995
this state. The transferee shall add such income in computing its 40996
tax for the same tax year or years that such income would have 40997
been reported by the transferor if the transfer had not been made. 40998
The transferee shall add such income only to the extent the income 40999
is not required to be reported by the transferor for the purposes 41000
of the tax imposed by divisions (A) and (B) of section 5733.06 of 41001
the Revised Code. 41002

(C) The following shall be determined in the same manner as 41003
if the transfer had not been made: 41004

(1) The transferor's net income allocated or apportioned to 41005
this state for the tax year under divisions (B)(1) and (2) of 41006
section 5733.05 of the Revised Code; 41007

(2) The transferor's requirements for the combination of net 41008
income under section 5733.052 of the Revised Code; 41009

(3) Any other determination regarding the transferor that is 41010
necessary to avoid an absurd or unreasonable result in the 41011
application of this chapter. 41012

(D) A transferee shall be allowed the following credits and 41013
shall make the following adjustments in the same manner that they 41014

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would have been available to the transferor: 41015

(1) The credits enumerated in section 5733.98 of the Revised 41016
Code; 41017

(2) The deduction under division (I)(1) of section 5733.04 of 41018
the Revised Code for net operating losses incurred by its 41019
transferor, subject to the limitations set forth in sections 381 41020
and 382 of the Internal Revenue Code concerning net operating loss 41021
carryovers; 41022

(3) Any other deduction from or addition to net income under 41023
this chapter involving the transferor, the disallowance of which 41024
would be absurd or unreasonable. Such adjustments to net income 41025
and allowance of credits shall be subject to the limitations set 41026
forth in sections 381 and 382 of the Internal Revenue Code and 41027
regulations prescribed thereunder. 41028

(E) If a transferee subject to this section subsequently 41029
becomes a transferor, any net income that the transferee would 41030
have been required to add under division (B) of this section shall 41031
be included in its income as a transferor and any credits or 41032
adjustments to which the transferee would have been entitled under 41033
division (D) of this section shall be available to it as a 41034
transferor. 41035

(F) The amendments made to this section by Am. Sub. S.B. 287 41036
of the 123rd general assembly do not apply to any transfer for 41037
which negotiations began prior to January 1, 2001, and that was 41038
commenced in and completed during calendar year 2001, unless the 41039
transferee makes an election prior to December 31, 2001, to apply 41040
the section. 41041

Sec. 5733.056. (A) As used in this section: 41042

(1) "Billing address" means the address where any notice, 41043
statement, or bill relating to a customer's account is mailed, as 41044

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indicated in the books and records of the taxpayer on the first 41045
day of the taxable year or on such later date in the taxable year 41046
when the customer relationship began. 41047

(2) "Borrower or credit card holder located in this state" 41048
means: 41049

(a) A borrower, other than a credit card holder, that is 41050
engaged in a trade or business and maintains its commercial 41051
domicile in this state; or 41052

(b) A borrower that is not engaged in a trade or business, or 41053
a credit card holder, whose billing address is in this state. 41054

(3) "Branch" means a "domestic branch" as defined in section 41055
3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 41056
1813(o), as amended. 41057

(4) "Compensation" means wages, salaries, commissions, and 41058
any other form of remuneration paid to employees for personal 41059
services that are included in such employee's gross income under 41060
the Internal Revenue Code. In the case of employees not subject to 41061
the Internal Revenue Code, such as those employed in foreign 41062
countries, the determination of whether such payments would 41063
constitute gross income to such employees under the Internal 41064
Revenue Code shall be made as though such employees were subject 41065
to the Internal Revenue Code. 41066

(5) "Credit card" means a credit, travel, or entertainment 41067
card. 41068

(6) "Credit card issuer's reimbursement fee" means the fee a 41069
taxpayer receives from a merchant's bank because one of the 41070
persons to whom the taxpayer has issued a credit card has charged 41071
merchandise or services to the credit card. 41072

(7) "Deposits" has the meaning given in section 3 of the 41073
"Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), 41074

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as amended.

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(8) "Employee" means, with respect to a particular taxpayer, any individual who under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

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(9) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property.

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"Gross rents" includes:

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(a) Any amount payable for the use or possession of real property or tangible personal property whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;

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(b) Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and

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(c) A proportionate part of the cost of any improvement to real property made by or on behalf of the taxpayer which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land, by or on behalf of the taxpayer, the value of the land is determined by multiplying the gross rent by eight, and the value of the building is determined in the same manner as if owned by the taxpayer.

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(d) The following are not included in the term "gross rents":

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(i) Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

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- (ii) Reasonable amounts payable as service charges for 41105
janitorial services furnished by the lessor; 41106
- (iii) Reasonable amounts payable for storage, provided such 41107
amounts are payable for space not designated and not under the 41108
control of the taxpayer; and 41109
- (iv) That portion of any rental payment which is applicable 41110
to the space subleased from the taxpayer and not used by it. 41111
- (10) "Loan" means any extension of credit resulting from 41112
direct negotiations between the taxpayer and its customer, or the 41113
purchase, in whole or in part, of such extension of credit from 41114
another. Loans include debt obligations of subsidiaries, 41115
participations, syndications, and leases treated as loans for 41116
federal income tax purposes. "Loan" does not include: properties 41117
treated as loans under section 595 of the Internal Revenue Code; 41118
futures or forward contracts; options; notional principal 41119
contracts such as swaps; credit card receivables, including 41120
purchased credit card relationships; non-interest bearing balances 41121
due from depositor institutions; cash items in the process of 41122
collection; federal funds sold; securities purchased under 41123
agreements to resell; assets held in a trading account; 41124
securities; interests in a real estate mortgage investment conduit 41125
or other mortgage-backed or asset-backed security; and other 41126
similar items. 41127
- (11) "Loan secured by real property" means that fifty per 41128
cent or more of the aggregate value of the collateral used to 41129
secure a loan or other obligation, when valued at fair market 41130
value as of the time the original loan or obligation was incurred, 41131
was real property. 41132
- (12) "Merchant discount" means the fee, or negotiated 41133
discount, charged to a merchant by the taxpayer for the privilege 41134
of participating in a program whereby a credit card is accepted in 41135

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payment for merchandise or services sold to the card holder. 41136

(13) "Participation" means an extension of credit in which an 41137
undivided ownership interest is held on a pro rata basis in a 41138
single loan or pool of loans and related collateral. In a loan 41139
participation, the credit originator initially makes the loan and 41140
then subsequently resells all or a portion of it to other lenders. 41141
The participation may or may not be known to the borrower. 41142

(14) "Principal base of operations" with respect to 41143
transportation property means the place of more or less permanent 41144
nature from which the property is regularly directed or 41145
controlled. With respect to an employee, the "principal base of 41146
operations" means the place of more or less permanent nature from 41147
which the employee regularly (a) starts work and to which the 41148
employee customarily returns in order to receive instructions from 41149
the employer or (b) communicates with the employee's customers or 41150
other persons or (c) performs any other functions necessary to the 41151
exercise of the trade or profession at some other point or points. 41152

(15) "Qualified institution" means a financial institution 41153
that on or after June 1, 1997: 41154

(a)(i) Has consummated one or more approved transactions with 41155
insured banks with different home states that would qualify under 41156
section 102 of the "Riegle-Neal Interstate Banking and Branching 41157
Efficiency Act of 1994," Public Law 103-328, 108 ~~stat.~~ Stat. 2338; 41158
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(ii) Is a federal savings association or federal savings bank 41160
that has consummated one or more interstate acquisitions that 41161
result in a financial institution that has branches in more than 41162
one state; or 41163

(iii) Has consummated one or more approved interstate 41164
acquisitions under authority of Title XI of the Revised Code that 41165
result in a financial institution that has branches in more than 41166

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one state; and 41167

(b) Has at least ten per cent of its deposits in this state 41168
as of the last day of June prior to the beginning of the tax year. 41169

(16) "Real property owned" and "tangible personal property 41170
owned" mean real and tangible personal property, respectively, on 41171
which the taxpayer may claim depreciation for federal income tax 41172
purposes, or to which the taxpayer holds legal title and on which 41173
no other person may claim depreciation for federal income tax 41174
purposes, or could claim depreciation if subject to federal income 41175
tax. Real and tangible personal property do not include coin, 41176
currency, or property acquired in lieu of or pursuant to a 41177
foreclosure. 41178

(17) "Regular place of business" means an office at which the 41179
taxpayer carries on its business in a regular and systematic 41180
manner and which is continuously maintained, occupied, and used by 41181
employees of the taxpayer. 41182

(18) "State" means a state of the United States, the District 41183
of Columbia, the commonwealth of Puerto Rico, or any territory or 41184
possession of the United States. 41185

(19) "Syndication" means an extension of credit in which two 41186
or more persons fund and each person is at risk only up to a 41187
specified percentage of the total extension of credit or up to a 41188
specified dollar amount. 41189

(20) "Transportation property" means vehicles and vessels 41190
capable of moving under their own power, such as aircraft, trains, 41191
water vessels and motor vehicles, as well as any equipment or 41192
containers attached to such property, such as rolling stock, 41193
barges, trailers, or the like. 41194

(B) The annual financial institution report determines the 41195
value of the issued and outstanding shares of stock of the 41196
taxpayer, and is the base or measure of the franchise tax 41197

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liability. Such determination shall be made as of the date shown
by the report to have been the beginning of the financial
institution's annual accounting period that includes the first day
of January of the tax year. For purposes of this section, division
(A) of section 5733.05, and division (D) of section 5733.06 of the
Revised Code, the value of the issued and outstanding shares of
stock of the financial institution shall include the total value,
as shown by the books of the financial institution, of its
capital, surplus, whether earned or unearned, undivided profits,
and reserves, but exclusive of:

(1) Reserves for accounts receivable, depreciation,
depletion, and any other valuation reserves with respect to
specific assets;

(2) Taxes due and payable during the year for which such
report was made;

(3) Voting stock and participation certificates in
corporations chartered pursuant to the "Farm Credit Act of 1971,"
85 Stat. 597, 12 U.S.C. 2091, as amended;

(4) Good will, appreciation, and abandoned property as set up
in the annual report of the financial institution, provided a
certified balance sheet of the company is made available upon the
request of the tax commissioner. Such balance sheet shall not be a
part of the public records, but shall be a confidential report for
use of the tax commissioner only.

(5) A portion of the value of the issued and outstanding
shares of stock of such financial institution equal to the amount
obtained by multiplying such value by the quotient obtained by:

(a) Dividing (1) the amount of the financial institution's
assets, as shown on its books, represented by investments in the
capital stock and indebtedness of public utilities of which at
least eighty per cent of the utility's issued and outstanding

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common stock is owned by the financial institution by (2) the 41229
total assets of such financial institution as shown on its books; 41230

(b) Dividing (1) the amount of the financial institution's 41231
assets, as shown on its books, represented by investments in the 41232
capital stock and indebtedness of insurance companies of which at 41233
least eighty per cent of the insurance company's issued and 41234
outstanding common stock is owned by the financial institution by 41235
(2) the total assets of such financial institution as shown on its 41236
books; 41237

(c) Dividing (1) the amount of the financial institution's 41238
assets, as shown on its books, represented by investments in the 41239
capital stock and indebtedness of other financial institutions of 41240
which at least twenty-five per cent of the other financial 41241
institution's issued and outstanding common stock is owned by the 41242
financial institution by (2) the total assets of the financial 41243
institution as shown on its books. Division (B)(5)(c) of this 41244
section applies only with respect to such other financial 41245
institutions that for the tax year immediately following the 41246
taxpayer's taxable year will pay the tax imposed by division (D) 41247
of section 5733.06 of the Revised Code. 41248

(6) Land that has been determined pursuant to section 5713.31 41249
of the Revised Code by the county auditor of the county in which 41250
the land is located to be devoted exclusively to agricultural use 41251
as of the first Monday of June in the financial institution's 41252
taxable year. 41253

(7) Property within this state used exclusively during the 41254
taxable year for qualified research as defined in section 5733.05 41255
of the Revised Code. 41256

(C) The base upon which the tax levied under division (D) of 41257
section 5733.06 of the Revised Code shall be computed by 41258
multiplying the value of a financial institution's issued and 41259

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outstanding shares of stock as determined in division (B) of this
section by a fraction. The numerator of the fraction is the sum of
the following: the property factor multiplied by fifteen, the
payroll factor multiplied by fifteen, and the sales factor
multiplied by seventy. The denominator of the fraction is one
hundred, provided that the denominator shall be reduced by fifteen
if the property factor has a denominator of zero, by fifteen if
the payroll factor has a denominator of zero, and by seventy if
the sales factor has a denominator of zero.

(D) A financial institution shall calculate the property
factor as follows:

(1) The property factor is a fraction, the numerator of which
is the average value of real property and tangible personal
property rented to the taxpayer that is located or used within
this state during the taxable year, the average value of real and
tangible personal property owned by the taxpayer that is located
or used within this state during the taxable year, and the average
value of the taxpayer's loans and credit card receivables that are
located within this state during the taxable year; and the
denominator of which is the average value of all such property
located or used within and without this state during the taxable
year.

(2)(a) The value of real property and tangible personal
property owned by the taxpayer is the original cost or other basis
of such property for federal income tax purposes without regard to
depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance,
without regard to any reserve for bad debts. If a loan is
charged-off in whole or in part for federal income tax purposes,
the portion of the loan charged-off is not outstanding. A
specifically allocated reserve established pursuant to financial
accounting guidelines which is treated as charged-off for federal

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income tax purposes shall be treated as charged-off for purposes 41292
of this section. 41293

(c) Credit card receivables are valued at their outstanding 41294
principal balance, without regard to any reserve for bad debts. If 41295
a credit card receivable is charged-off in whole or in part for 41296
federal income tax purposes, the portion of the receivable 41297
charged-off is not outstanding. 41298

(3) The average value of property owned by the taxpayer is 41299
computed on an annual basis by adding the value of the property on 41300
the first day of the taxable year and the value on the last day of 41301
the taxable year and dividing the sum by two. If averaging on this 41302
basis does not properly reflect average value, the tax 41303
commissioner may require averaging on a more frequent basis. The 41304
taxpayer may elect to average on a more frequent basis. When 41305
averaging on a more frequent basis is required by the tax 41306
commissioner or is elected by the taxpayer, the same method of 41307
valuation must be used consistently by the taxpayer with respect 41308
to property within and without this state and on all subsequent 41309
returns unless the taxpayer receives prior permission from the tax 41310
commissioner or the tax commissioner requires a different method 41311
of determining value. 41312

(4)(a) The average value of real property and tangible 41313
personal property that the taxpayer has rented from another and is 41314
not treated as property owned by the taxpayer for federal income 41315
tax purposes, shall be determined annually by multiplying the 41316
gross rents payable during the taxable year by eight. 41317

(b) Where the use of the general method described in division 41318
(D)(4)(a) of this section results in inaccurate valuations of 41319
rented property, any other method which properly reflects the 41320
value may be adopted by the tax commissioner or by the taxpayer 41321
when approved in writing by the tax commissioner. Once approved, 41322
such other method of valuation must be used on all subsequent 41323

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returns unless the taxpayer receives prior approval from the tax
commissioner or the tax commissioner requires a different method
of valuation.

(5)(a) Except as described in division (D)(5)(b) of this
section, real property and tangible personal property owned by or
rented to the taxpayer is considered to be located within this
state if it is physically located, situated, or used within this
state.

(b) Transportation property is included in the numerator of
the property factor to the extent that the property is used in
this state. The extent an aircraft will be deemed to be used in
this state and the amount of value that is to be included in the
numerator of this state's property factor is determined by
multiplying the average value of the aircraft by a fraction, the
numerator of which is the number of landings of the aircraft in
this state and the denominator of which is the total number of
landings of the aircraft everywhere. If the extent of the use of
any transportation property within this state cannot be
determined, then the property will be deemed to be used wholly in
the state in which the property has its principal base of
operations. A motor vehicle will be deemed to be used wholly in
the state in which it is registered.

(6)(a)(i) A loan, other than a loan or advance described in
division (D)(6)(d) of this section, is considered to be located
within this state if it is properly assigned to a regular place of
business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of
business with which it has a preponderance of substantive
contacts. A loan assigned by the taxpayer to a regular place of
business without the state shall be presumed to have been properly
assigned if:

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(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive contacts of the load to such regular place of business; and

(III) The taxpayer uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

(iii) The presumption of proper assignment of a loan provided in division (D)(6)(a)(ii) of this section may be rebutted upon a showing by the tax commissioner, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur at the regular place of business to which it was assigned on the taxpayer's records. When such presumption has been rebutted, the loan shall then be located within this state if (1) the taxpayer had a regular place of business within this state at the time the loan was made; and (2) the taxpayer fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding such load did not occur within this state.

(b) In the case of a loan which is assigned by the taxpayer to a place without this state which is not a regular place of business, it shall be presumed, subject to rebuttal by the taxpayer on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this state if, at the time the loan was made the taxpayer's commercial domicile was within this state.

(c) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts

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and circumstances regarding the loan at issue shall be reviewed on
a case-by-case basis and consideration shall be given to such
activities as the solicitation, investigation, negotiation,
approval, and administration of the loan. The terms
"solicitation," "investigation," "negotiation," "approval," and
"administration" are defined as follows:

(i) "Solicitation" is either active or passive. Active
solicitation occurs when an employee of the taxpayer initiates the
contact with the customer. Such activity is located at the regular
place of business which the taxpayer's employee is regularly
connected with or working out of, regardless of where the services
of such employee were actually performed. Passive solicitation
occurs when the customer initiates the contact with the taxpayer.
If the customer's initial contact was not at a regular place of
business of the taxpayer, the regular place of business, if any,
where the passive solicitation occurred is determined by the facts
in each case.

(ii) "Investigation" is the procedure whereby employees of
the taxpayer determine the creditworthiness of the customer as
well as the degree of risk involved in making a particular
agreement. Such activity is located at the regular place of
business which the taxpayer's employees are regularly connected
with or working out of, regardless of where the services of such
employees were actually performed.

(iii) Negotiation is the procedure whereby employees of the
taxpayer and its customer determine the terms of the agreement,
such as the amount, duration, interest rate, frequency of
repayment, currency denomination, and security required. Such
activity is located at the regular place of business to which the
taxpayer's employees are regularly connected or working from,
regardless of where the services of such employees were actually
performed.

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(iv) "Approval" is the procedure whereby employees or the board of directors of the taxpayer make the final determination whether to enter into the agreement. Such activity is located at the regular place of business to which the taxpayer's employees are regularly connected or working from, regardless of where the services of such employees were actually performed. If the board of directors makes the final determination, such activity is located at the commercial domicile of the taxpayer.

(v) "Administration" is the process of managing the account. This process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement, and proceeding against the borrower or the security interest if the borrower is in default. Such activity is located at the regular place of business that oversees this activity.

(d) A loan or advance to a subsidiary corporation at least fifty-one per cent of whose common stock is owned by the financial institution shall be allocated in and out of the state by the application of a ratio whose numerator is the sum of the net book value of the subsidiary's real property owned in this state and the subsidiary's tangible personal property owned in this state and whose denominator is the sum of the subsidiary's real property owned wherever located and the subsidiary's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles. If the subsidiary corporation owns at least fifty-one per cent of the common stock of another corporation, the ratio shall be calculated by including the other corporation's real property and tangible personal property. The calculation of the ratio applies with respect to all lower-tiered subsidiaries, provided that the immediate parent corporation of the subsidiary owns at least fifty-one per cent of

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the common stock of that subsidiary. 41450

(7) For purposes of determining the location of credit card 41451
receivables, credit card receivables shall be treated as loans and 41452
shall be subject to division (D)(6) of this section. 41453

(8) A loan that has been properly assigned to a state shall, 41454
absent any change of material fact, remain assigned to that state 41455
for the length of the original term of the loan. Thereafter, the 41456
loan may be properly assigned to another state if the loan has a 41457
preponderance of substantive contact to a regular place of 41458
business there. 41459

(E) A financial institution shall calculate the payroll 41460
factor as follows: 41461

(1) The payroll factor is a fraction, the numerator of which 41462
is the total amount paid in this state during the taxable year by 41463
the taxpayer for compensation, and the denominator of which is the 41464
total compensation paid both within and without this state during 41465
the taxable year. 41466

(2) Compensation is paid in this state if any one of the 41467
following tests, applied consecutively, is met: 41468

(a) The employee's services are performed entirely within 41469
this state. 41470

(b) The employee's services are performed both within and 41471
without this state, but the service performed without this state 41472
is incidental to the employee's service within this state. The 41473
term "incidental" means any service which is temporary or 41474
transitory in nature, or which is rendered in connection with an 41475
isolated transaction. 41476

(c) The employee's services are performed both within and 41477
without this state, and: 41478

(i) The employee's principal base of operations is within 41479

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this state; or 41480

(ii) There is no principal base of operations in any state in 41481
which some part of the services are performed, but the place from 41482
which the services are directed or controlled is in this state; or 41483
41484

(iii) The principal base of operations and the place from 41485
which the services are directed or controlled are not in any state 41486
in which some part of the service is performed but the employee's 41487
residence is in this state. 41488

(F) A financial institution shall calculate the sales factor 41489
as follows: 41490

(1) The sales factor is a fraction, the numerator of which is 41491
the receipts of the taxpayer in this state during the taxable year 41492
and the denominator of which is the receipts of the taxpayer 41493
within and without this state during the taxable year. The method 41494
of calculating receipts for purposes of the denominator is the 41495
same as the method used in determining receipts for purposes of 41496
the numerator. 41497

(2) The numerator of the sales factor includes receipts from 41498
the lease or rental of real property owned by the taxpayer if the 41499
property is located within this state, or receipts from the 41500
sublease of real property if the property is located within this 41501
state. 41502

(3)(a) Except as described in division (F)(3)(b) of this 41503
section the numerator of the sales factor includes receipts from 41504
the lease or rental of tangible personal property owned by the 41505
taxpayer if the property is located within this state when it is 41506
first placed in service by the lessee. 41507

(b) Receipts from the lease or rental of transportation 41508
property owned by the taxpayer are included in the numerator of 41509
the sales factor to the extent that the property is used in this 41510

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state. The extent an aircraft will be deemed to be used in this
state and the amount of receipts that is to be included in the
numerator of this state's sales factor is determined by
multiplying all the receipts from the lease or rental of the
aircraft by a fraction, the numerator of which is the number of
landings of the aircraft in this state and the denominator of
which is the total number of landings of the aircraft. If the
extent of the use of any transportation property within this state
cannot be determined, then the property will be deemed to be used
wholly in the state in which the property has its principal base
of operations. A motor vehicle will be deemed to be used wholly in
the state in which it is registered.

(4)(a) The numerator of the sales factor includes interest
and fees or penalties in the nature of interest from loans secured
by real property if the property is located within this state. If
the property is located both within this state and one or more
other states, the receipts described in this paragraph are
included in the numerator of the sales factor if more than fifty
per cent of the fair market value of the real property is located
within this state. If more than fifty per cent of the fair market
value of the real property is not located within any one state,
then the receipts described in this paragraph shall be included in
the numerator of the sales factor if the borrower is located in
this state.

(b) The determination of whether the real property securing a
loan is located within this state shall be made as of the time the
original agreement was made and any and all subsequent
substitutions of collateral shall be disregarded.

(5) The numerator of the sales factor includes interest and
fees or penalties in the nature of interest from loans not secured
by real property if the borrower is located in this state.

(6) The numerator of the sales factor includes net gains from

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the sale of loans. Net gains from the sale of loans includes 41543
income recorded under the coupon stripping rules of section 1286 41544
of the Internal Revenue Code. 41545

(a) The amount of net gains, but not less than zero, from the 41546
sale of loans secured by real property included in the numerator 41547
is determined by multiplying such net gains by a fraction the 41548
numerator of which is the amount included in the numerator of the 41549
sales factor pursuant to division (F)(4) of this section and the 41550
denominator of which is the total amount of interest and fees or 41551
penalties in the nature of interest from loans secured by real 41552
property. 41553

(b) The amount of net gains, but not less than zero, from the 41554
sale of loans not secured by real property included in the 41555
numerator is determined by multiplying such net gains by a 41556
fraction the numerator of which is the amount included in the 41557
numerator of the sales factor pursuant to division (F)(5) of this 41558
section and the denominator of which is the total amount of 41559
interest and fees or penalties in the nature of interest from 41560
loans not secured by real property. 41561

(7) The numerator of the sales factor includes interest and 41562
fees or penalties in the nature of interest from credit card 41563
receivables and receipts from fees charged to card holders, such 41564
as annual fees, if the billing address of the card holder is in 41565
this state. 41566

(8) The numerator of the sales factor includes net gains, but 41567
not less than zero, from the sale of credit card receivables 41568
multiplied by a fraction, the numerator of which is the amount 41569
included in the numerator of the sales factor pursuant to division 41570
(F)(7) of this section and the denominator of which is the 41571
taxpayer's total amount of interest and fees or penalties in the 41572
nature of interest from credit card receivables and fees charged 41573
to card holders. 41574

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(9) The numerator of the sales factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(10) The numerator of the sales factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. Such receipts shall be computed net of any card holder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(11)(a)(i) The numerator of the sales factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(ii) The numerator of the sales factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(b) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the sales factor shall include such fees if the borrower is located in this state.

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(12) The numerator of the sales factor includes receipts from services not otherwise apportioned under this section if the service is performed in this state. If the service is performed both within and without this state, the numerator of the sales factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income producing activity is performed in this state based on cost of performance.

(13)(a) Interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities shall be included in the sales factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions. With respect to the investment and trading assets and activities described in divisions (F)(13)(a)(i) and (ii) of this section, the sales factor shall include the amounts described in such divisions.

(i) The sales factor shall include the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

(ii) The sales factor shall include the amount by which interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and activities.

(b) The numerator of the sales factor includes interest,

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dividends, net gains, but not less than zero, and other income 41638
from investment assets and activities and from trading assets and 41639
activities described in division (F)(13)(a) of this section that 41640
are attributable to this state. 41641

(i) The amount of interest, other than interest described in 41642
division (F)(13)(b)(iv) of this section, dividends, other than 41643
dividends described in that division, net gains, but not less than 41644
zero, and other income from investment assets and activities in 41645
the investment account to be attributed to this state and included 41646
in the numerator is determined by multiplying all such income from 41647
such assets and activities by a fraction, the numerator of which 41648
is the average value of such assets which are properly assigned to 41649
a regular place of business of the taxpayer within this state and 41650
the denominator of which is the average value of all such assets. 41651

(ii) The amount of interest from federal funds sold and 41652
purchased and from securities purchased under resale agreements 41653
and securities sold under repurchase agreements attributable to 41654
this state and included in the numerator is determined by 41655
multiplying the amount described in division (F)(13)(a)(i) of this 41656
section from such funds and such securities by a fraction, the 41657
numerator of which is the average value of federal funds sold and 41658
securities purchased under agreements to resell which are properly 41659
assigned to a regular place of business of the taxpayer within 41660
this state and the denominator of which is the average value of 41661
all such funds and such securities. 41662

(iii) The amount of interest, dividends, gains, and other 41663
income from trading assets and activities, including but not 41664
limited to assets and activities in the matched book, in the 41665
arbitrage book, and foreign currency transaction, but excluding 41666
amounts described in division (F)(13)(b)(i) or (ii) of this 41667
section, attributable to this state and included in the numerator 41668
is determined by multiplying the amount described in division 41669

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(F)(13)(a)(ii) of this section by a fraction, the numerator of which is the average value of such trading assets which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible personal property owned in this state and whose denominator is the sum of the net book value of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(v) For purposes of this division, average value shall be determined using the rules for determining the average value of tangible personal property set forth in division (D)(2) and (3) of this section.

(c) In lieu of using the method set forth in division (F)(13)(b) of this section, the taxpayer may elect, or the tax commissioner may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in division (F)(13)(c) of this section.

(i) The amount of interest, other than interest described in division (F)(13)(b)(iv) of this section, dividends, other than dividends described in that division, net gains, but not less than zero, and other income from investment assets and activities in the investment account to be attributed to this state and included

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in the numerator is determined by multiplying all such income from
such assets and activities by a fraction, the numerator of which
is the gross income from such assets and activities which are
properly assigned to a regular place of business of the taxpayer
within this state, and the denominator of which is the gross
income from all such assets and activities.

(ii) The amount of interest from federal funds sold and
purchased and from securities purchased under resale agreements
and securities sold under repurchase agreements attributable to
this state and included in the numerator is determined by
multiplying the amount described in division (F)(13)(a)(i) of this
section from such funds and such securities by a fraction, the
numerator of which is the gross income from such funds and such
securities which are properly assigned to a regular place of
business of the taxpayer within this state and the denominator of
which is the gross income from all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other
income from trading assets and activities, including, but not
limited to, assets and activities in the matched book, in the
arbitrage book, and foreign currency transactions, but excluding
amounts described in division (F)(13)(a)(i) or (ii) of this
section, attributable to this state and included in the numerator,
is determined by multiplying the amount described in division
(F)(13)(a)(ii) of this section by a fraction, the numerator of
which is the gross income from such trading assets and activities
which are properly assigned to a regular place of business of the
taxpayer within this state and the denominator of which is the
gross income from all such assets and activities.

(iv) The amount of dividends received on the capital stock
of, and the amount of interest received from loans and advances
to, subsidiary corporations at least fifty-one per cent of whose
common stock is owned by the reporting financial institution shall

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be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible personal property owned in this state and whose denominator is the sum of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(d) If the taxpayer elects or is required by the tax commissioner to use the method set forth in division (F)(13)(c) of this section, it shall use this method on all subsequent returns unless the taxpayer receives prior permission from the tax commissioner to use or the tax commissioner requires a different method.

(e) The taxpayer shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one such regular place of business is in this state and one such regular place of business is outside this state such asset or activity shall be considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the taxpayer demonstrates to the contrary, such policies and guidelines shall be presumed to be established at the commercial domicile of the taxpayer.

(14) The numerator of the sales factor includes all other

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receipts if either: 41766

(a) The income-producing activity is performed solely in this 41767
state; or 41768

(b) The income-producing activity is performed both within 41769
and without this state and a greater proportion of the 41770
income-producing activity is performed within this state than in 41771
any other state, based on costs of performance. 41772

(G) A qualified institution may calculate the base upon which 41773
the fee provided for in division (D) of section 5733.06 ~~(D)~~ of the 41774
~~revised code~~ Revised Code is determined for each of the tax years 41775
1998, 1999, 2000, ~~and~~ 2001, 2002, and 2003 by multiplying the 41776
value of its issued and outstanding shares of stock determined 41777
under division (B) of this section by a single deposits fraction 41778
whose numerator is the deposits assigned to branches in this state 41779
and whose denominator is the deposits assigned to branches 41780
everywhere. Deposits shall be assigned to branches in the same 41781
manner in which the assignment is made for regulatory purposes. If 41782
the base calculated under this division is less than the base 41783
calculated under division (C) of this section, then the qualifying 41784
institution may elect to substitute the base calculated under this 41785
division for the base calculated under division (C) of this 41786
section. Such election may be made annually for each of the tax 41787
years 1998, 1999, 2000, ~~and~~ 2001, 2002, and 2003 on the corporate 41788
report. The election need not accompany the report; rather, the 41789
election may accompany a subsequently filed but timely application 41790
for refund, a subsequently filed but timely amended report, or a 41791
subsequently filed but timely petition for reassessment. The 41792
election is not irrevocable and it applies only to the specified 41793
tax year. Nothing in this division shall be construed to extend 41794
any statute of limitations set forth in this chapter 41795

(H) If the apportionment provisions of this section do not 41796
fairly represent the extent of the taxpayer's business activity in 41797

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this state, the taxpayer may petition for or the tax commissioner
may require, in respect to all or any part of the taxpayer's
business activity, if reasonable:

(1) Separate accounting; 41801

(2) The exclusion of any one or more of the factors; 41802

(3) The inclusion of one or more additional factors which
will fairly represent the taxpayer's business activity in this
state; or 41803
41804
41805

(4) The employment of any other method to effectuate an
equitable allocation and apportionment of the taxpayer's value. 41806
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Sec. 5733.06. The tax hereby charged each corporation subject
to this chapter shall be the greater of the sum of divisions (A)
and (B) of this section, after the reduction, if any, provided by
division (J) of this section, or division (C) of this section,
after the reduction, if any, provided by division (J) of this
section, except that the tax hereby charged each financial
institution subject to this chapter shall be the amount computed
under division (D) of this section: 41808
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(A) Except as set forth in division (F) of this section, five
and one-tenth per cent upon the first fifty thousand dollars of
the value of the taxpayer's issued and outstanding shares of stock
as determined under division (B) of section 5733.05 of the Revised
Code; 41816
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(B) Except as set forth in division (F) of this section,
eight and one-half per cent upon the value so determined in excess
of fifty thousand dollars; or 41821
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41823

(C) Except as otherwise provided under division (G) of this
section, four mills times that portion of the value of the issued
and outstanding shares of stock as determined under division (C)
of section 5733.05 of the Revised Code. For the purposes of 41824
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division (C) of this section, division (C)(2) of section 5733.065, 41828
and division (C) of section 5733.066 of the Revised Code, the 41829
value of the issued and outstanding shares of stock of a qualified 41830
holding company is zero. 41831

(D) The tax charged each financial institution subject to 41832
this chapter shall be that portion of the value of the issued and 41833
outstanding shares of stock as determined under division (A) of 41834
section 5733.05 of the Revised Code, multiplied by the following 41835
amounts: 41836

(1) For tax years prior to the 1999 tax year, fifteen mills; 41837

(2) For the 1999 tax year, fourteen mills; 41838

(3) For tax year 2000 and thereafter, thirteen mills. 41839

(E) No tax shall be charged from any corporation that has 41840
been adjudicated bankrupt, or for which a receiver has been 41841
appointed, or that has made a general assignment for the benefit 41842
of creditors, except for the portion of the then current tax year 41843
during which the tax commissioner finds such corporation had the 41844
power to exercise its corporate franchise unimpaired by such 41845
proceedings or act. The minimum payment for all corporations shall 41846
be fifty dollars. 41847

The tax charged to corporations under this chapter for the 41848
privilege of engaging in business in this state, which is an 41849
excise tax levied on the value of the issued and outstanding 41850
shares of stock, shall in no manner be construed as prohibiting or 41851
otherwise limiting the powers of municipal corporations, joint 41852
economic development zones created under section 715.691 of the 41853
Revised Code, and joint economic development districts created 41854
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 41855
Revised Code in this state to impose an income tax on the income 41856
of such corporations. 41857

(F) If two or more taxpayers satisfy the ownership or control 41858

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requirements of division (A) of section 5733.052 of the Revised
Code, each such taxpayer shall substitute "the taxpayer's pro-rata
amount" for "fifty thousand dollars" in divisions (A) and (B) of
this section. For purposes of this division, "the taxpayer's
pro-rata amount" is an amount that, when added to the other such
taxpayers' pro-rata amounts, does not exceed fifty thousand
dollars. For the purpose of making that computation, the
taxpayer's pro-rata amount shall not be less than zero. Nothing in
this division derogates from or eliminates the requirement to make
the alternative computation of tax under division (C) of this
section.

(G) The tax liability of any corporation under division (C)
of this section shall not exceed one hundred fifty thousand
dollars.

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

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

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

(c) The corporation was not a financial institution on the
first day of January immediately following that calendar year;

(d) If the corporation was a transferor as defined in section
5733.053 of the Revised Code, the corporation's transferee was not
required to add to the transferee's net income the income of the
transferor pursuant to division (B) of that section;

(e) During any portion of that calendar year, or any portion
of the immediately preceding calendar year, the corporation had

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net income that was not included in a report filed by the
corporation or its transferee pursuant to section 5733.02,
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code;

(f) The corporation would have been subject to the tax
computed under divisions (A), (B), (C), (F), and (G) of this
section if the corporation is assumed to be a corporation
described in division (A) of section 5733.01 of the Revised Code
on the first day of January immediately following the calendar
year to which division (H)(1)(a) of this section refers.

(2) For the purposes of division (H) of this section,
"unreported net income" means net income that was not previously
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

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due under division (H) of this section on or before the 41921
thirty-first day of May immediately following the calendar year to 41922
which division (H)(1)(a) of this section refers. The exiting 41923
corporation shall file that report on the form most recently 41924
prescribed by the tax commissioner for the purposes of complying 41925
with sections 5733.02 and 5733.03 of the Revised Code. Upon 41926
request by the corporation, the tax commissioner may extend the 41927
date for filing the report. 41928

(6) If, on account of the application of section 5733.053 of 41929
the Revised Code, net income is subject to the tax imposed by 41930
divisions (A) and (B) of this section, such income shall not be 41931
subject to the tax imposed by division (H)(3) of this section. 41932

(7) The amendments made to division (H) of this section by 41933
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 41934
any transfer, as defined in section 5733.053 of the Revised Code, 41935
for which negotiations began prior to January 1, 2001, and that 41936
was commenced in and completed during calendar year 2001, unless 41937
the taxpayer makes an election prior to December 31, 2001, to 41938
apply the section. 41939

(8) The tax commissioner may adopt rules governing division 41940
(H) of this section. 41941

(I) Any reference in the Revised Code to "the tax imposed by 41942
section 5733.06 of the Revised Code" or "the tax due under section 41943
5733.06 of the Revised Code" includes the taxes imposed under 41944
sections 5733.065 and 5733.066 of the Revised Code. 41945

(J)(1) Division (J) of this section applies solely to a 41946
combined company. Section 5733.057 of the Revised Code shall apply 41947
when calculating the adjustments required by division (J) of this 41948
section. 41949

(2) Subject to division (J)(4) of this section, the total tax 41950
calculated in divisions (A) and (B) of this section shall be 41951

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reduced by an amount calculated by multiplying such tax by a
fraction, the numerator of which is the total taxable gross
receipts attributed to providing public utility activity other
than as an electric company under section 5727.03 of the Revised
Code for the year upon which the taxable gross receipts are
measured immediately preceding the tax year, and the denominator
of which is the total gross receipts from all sources for the year
upon which the taxable gross receipts are measured immediately
preceding the tax year. Nothing herein shall be construed to
exclude from the denominator any item of income described in
section 5733.051 of the Revised Code.

(3) Subject to division (J)(4) of this section, the total tax
calculated in division (C) of this section shall be reduced by an
amount calculated by multiplying such tax by the fraction
described in division (J)(2) of this section.

(4) In no event shall the reduction provided by division
(J)(2) or (J)(3) of this section exceed the amount of the excise
tax paid in accordance with section 5727.38 of the Revised Code,
for the year upon which the taxable gross receipts are measured
immediately preceding the tax year.

Sec. 5733.12. (A) Four and two-tenths per cent of all
payments received ~~by the treasurer of state~~ from the taxes imposed
under sections 5733.06 and 5733.41 of the Revised Code shall be
credited to the local government fund for distribution in
accordance with section 5747.50 of the Revised Code, six-tenths of
one per cent shall be credited to the local government revenue
assistance fund for distribution in accordance with section
5747.61 of the Revised Code, and ninety-five and two-tenths per
cent shall be credited to the general revenue fund.

(B) Except as otherwise provided under divisions (C) and (D)
of this section, an application to refund to the corporation the

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amount of taxes imposed under section 5733.06 of the Revised Code 41983
that are overpaid, paid illegally or erroneously, or paid on any 41984
illegal, erroneous, or excessive assessment, with interest thereon 41985
as provided by section 5733.26 of the Revised Code, shall be filed 41986
with the tax commissioner, on the form prescribed by the 41987
commissioner, within three years from the date of the illegal, 41988
erroneous, or excessive payment of the tax, or within any 41989
additional period allowed by division (C)(2) of section 5733.031, 41990
division (D)(2) of section 5733.067, or division (A) of section 41991
5733.11 of the Revised Code. 41992

On the filing of the refund application, the commissioner 41993
shall determine the amount of refund due and certify such amount 41994
to the director of budget and management and treasurer of state 41995
for payment from the tax refund fund created by section 5703.052 41996
of the Revised Code. 41997

(C) "Ninety days" shall be substituted for "three years" in 41998
division (B) of this section if the taxpayer satisfies both of the 41999
following: 42000

(1) The taxpayer has applied for a refund based in whole or 42001
in part upon section 5733.0611 of the Revised Code; 42002

(2) The taxpayer asserts that the imposition or collection of 42003
the tax imposed or charged by section 5733.06 of the Revised Code 42004
or any portion of such tax violates the Constitution of the United 42005
States or the Constitution of this state. 42006

(D)(1) Division (D)(2) of this section applies only if all of 42007
the following conditions are satisfied: 42008

(a) A qualifying pass-through entity pays an amount of the 42009
tax imposed by section 5733.41 of the Revised Code; 42010

(b) The taxpayer is a qualifying investor as to that 42011
qualifying pass-through entity; 42012

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(c) The taxpayer did not claim the credit provided for in 42013
section 5733.0611 of the Revised Code as to the tax described in 42014
division (D)(1)(a) of this section; 42015

(d) The three-year period described in division (B) of this 42016
section has ended as to the taxable year for which the taxpayer 42017
otherwise would have claimed that credit. 42018

(2) A taxpayer shall file an application for refund pursuant 42019
to this division within one year after the date the payment 42020
described in division (D)(1)(a) of this section is made. An 42021
application filed under this division shall only claim refund of 42022
overpayments resulting from the taxpayer's failure to claim the 42023
credit described in division (D)(1)(c) of this section. Nothing in 42024
this division shall be construed to relieve a taxpayer from 42025
complying with the provisions of division (I)(14) of section 42026
5733.04 of the Revised Code. 42027

Sec. 5733.122. Between the first and fifteenth days of July 42028
each year, the tax commissioner shall certify to the director of 42029
budget and management the total reported liability of the taxes or 42030
surcharges levied in the second preceding year under sections 42031
5733.065 and 5733.066 of the Revised Code. Notwithstanding section 42032
5733.12 of the Revised Code, during the period July 1, 1980, to 42033
December 31, 1981, four million dollars received by the treasurer 42034
of state under this chapter the total amount certified in each 42035
year less an amount to be retained by the department of taxation 42036
for expenses resulting from the administration of the taxes or 42037
surcharges levied under sections 5733.065 and 5733.066 of the 42038
Revised Code shall be credited to the recycling and litter 42039
prevention fund created by section 1502.02 of the Revised Code. 42040
~~Thereafter, during each of the consecutive six-month periods~~ 42041
~~beginning January 1, 1982, five million dollars from amounts~~ 42042
received by the treasurer of state under this chapter ~~shall be~~ 42043

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~~credited to that fund.~~ No amount shall be credited to the local 42044
government fund from any receipts credited to the recycling and 42045
litter prevention fund under this section. 42046

The office of budget and mangement shall provide the 42047
treasurer of state with a monthly schedule in accordance with 42048
which the amounts shall be credited. 42049

Sec. 5733.18. Annually, on the day fixed for the payment of 42050
any excise or franchise tax required to be paid by law, such tax, 42051
together with any penalties subsequently accruing thereon, shall 42052
become a lien on all property in this state of a corporation, 42053
whether such property is employed by the corporation in the 42054
prosecution of its business or is in the hands of an assignee, 42055
trustee, or receiver for the benefit of the creditors and 42056
stockholders. Such lien shall continue until such taxes, together 42057
with any penalties subsequently accruing, are paid. 42058

Upon failure of such corporation to pay such tax on the day 42059
fixed for payment, ~~the treasurer of state shall thereupon notify~~ 42060
~~the tax commissioner and the commissioner~~ may file, for which 42061
filing no fee shall be charged, in the office of the county 42062
recorder in each county in this state in which such corporation 42063
owns or has a beneficial interest in real estate, notice of such 42064
lien containing a brief description of such real estate. Such lien 42065
shall not be valid as against any mortgagee, purchaser, or 42066
judgment creditor whose rights have attached prior to the time 42067
such notice is so filed in the county in which the real estate 42068
which is the subject of such mortgage, purchase, or judgment lien 42069
is located. Such notice shall be recorded in a book kept by the 42070
recorder, called the corporation franchise lien record, and 42071
indexed under the name of the corporation charged with such tax. 42072
When such tax, together with any penalties subsequently accruing 42073
thereon, has been paid, the tax commissioner shall furnish to the 42074
corporation an acknowledgment of such payment which the 42075

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corporation may record with the recorder of each county in which 42076
notice of such lien has been filed, for which recording the 42077
recorder shall charge and receive a fee of two dollars. 42078

Sec. 5733.401. (A) As used in this section: 42079

(1) "Investment pass-through entity" means a pass-through 42080
entity having for its qualifying taxable year at least ninety per 42081
cent of its gross income from transaction fees in connection with 42082
the acquisition, ownership, or disposition of intangible property, 42083
loan fees, financing fees, consent fees, waiver fees, application 42084
fees, net management fees, dividend income, interest income, net 42085
capital gains from the sale or exchange of intangible property, or 42086
distributive shares of income from pass-through entities; and 42087
having for its qualifying taxable year at least ninety per cent of 42088
the net book value of its assets represented by intangible assets. 42089
Such percentages shall be the quarterly average of those 42090
percentages as calculated during the pass-through entity's taxable 42091
year. 42092

(2) "Net management fees" means management fees that a 42093
pass-through entity earns or receives from all sources, reduced by 42094
management fees that the pass-through entity incurs or pays to any 42095
person. 42096

(B) For the purposes of divisions (A) and (C) of this section 42097
only, an investment in a pass-through entity shall be deemed to be 42098
an investment in an intangible asset. 42099

(C) Except as otherwise provided in division (D) of this 42100
section, for the purposes of division (A) of section 5733.40 of 42101
the Revised Code, an investment pass-through entity shall exclude 42102
from the calculation of the adjusted qualifying amount all 42103
transaction fees in connection with the acquisition, ownership, or 42104
disposition of intangible property; i loan fees; i financing fees; i 42105
consent fees; i waiver fees; i application fees; i net management 42106

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fees, but if such fees exceed five per cent of the entity's net 42107
income calculated in accordance with generally accepted accounting 42108
principles, all net management fees shall be included in the 42109
calculation of the adjusted qualifying amount; dividend income₇; 42110
interest income₇; net capital gains from the sale or exchange of 42111
intangible property₇; and all types and classifications of income 42112
attributable to distributive shares of income from other 42113
pass-through entities. Nothing in this division shall be construed 42114
to provide for an exclusion of any item from adjusted qualifying 42115
amount more than once. 42116

(D) Sections 5733.057 and 5747.231 of the Revised Code do not 42117
apply for the purposes of making the determinations required by 42118
division (A) of this section or claiming the exclusion provided by 42119
division (C) of this section. 42120

Sec. 5733.42. (A) As used in this section: 42121

(1) "Eligible training program" means a program to provide 42122
job skills to eligible employees who are unable effectively to 42123
function on the job due to skill deficiencies or who would 42124
otherwise be displaced because of their skill deficiencies or 42125
inability to use new technology, or to provide job skills to 42126
eligible employees that enable them to perform other job duties 42127
for the taxpayer. Eligible training programs do not include 42128
executive, management, or personal enrichment training programs, 42129
or training programs intended exclusively for personal career 42130
development. 42131

(2) "Eligible employee" means an individual who is employed 42132
in this state by a taxpayer and has been so employed by the same 42133
taxpayer for at least one hundred eighty consecutive days before 42134
the day an application for the credit is filed under this section. 42135
"Eligible employee" does not include any employee for which a 42136
credit is claimed pursuant to division (A)(5) of section 5709.65 42137

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of the Revised Code for all or any part of the same year, an
employee who is not a full-time employee, or executive or
managerial personnel except for the immediate supervisors of
nonexecutive, nonmanagerial personnel.

(3) "Eligible training costs" means:

(a) Direct instructional costs, such as instructor salaries,
materials and supplies, textbooks and manuals, videotapes, and
other instructional media and training equipment used exclusively
for the purpose of training eligible employees;

(b) Wages paid to eligible employees for time devoted
exclusively to an eligible training program during normal paid
working hours.

(4) "Full-time employee" means an individual who is employed
for consideration for at least thirty-five hours per week, or who
renders any other standard of service generally accepted by custom
or specified by contract as full-time employment.

(5) "Partnership" includes a limited liability company formed
under Chapter 1705. of the Revised Code or under the laws of
another state, provided that the company is not classified for
federal income tax purposes as an association taxable as a
corporation.

(B) There is hereby allowed a nonrefundable credit against
the tax imposed by section 5733.06 of the Revised Code for
taxpayers for which a tax credit certificate is issued under
division (C) of this section. The credit may ~~not~~ be claimed for
~~any tax year after tax year years 2004, except for amounts carried~~
~~forward to subsequent tax years to the extent allowed under~~
~~division (J) of this section 2005, and 2006, but may not be~~
~~claimed for tax years 2002 and 2003.~~ The amount of the credit for
each tax year shall equal one-half of the average of the eligible
training costs paid or incurred by the taxpayer during the three

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calendar years immediately preceding the tax year for which the
credit is claimed, not to exceed one thousand dollars for each
eligible employee on account of whom eligible training costs were
paid or incurred by the taxpayer during those calendar years. The
credit claimed by a taxpayer each tax year shall not exceed one
hundred thousand dollars.

If, on or before June 30, 2001, a taxpayer had properly filed
an application for a credit for tax year 2002 or 2003 as provided
in division (C) of this section, the director of job and family
services may authorize a credit for the eligible training costs
for which the credit is claimed subject to the limitations and
requirements of this section, but the tax credit certificate
issued for tax year 2002 or 2003 shall be applied only to the
taxpayer's liability for tax for tax year 2004. The credit claimed
by such a taxpayer shall be computed in the manner prescribed by
this section; is subject to the limitations of this section on the
amount of the credit for each eligible employee and for each tax
year; and shall be in addition to any credit claimed by the
taxpayer under this section for tax year 2004. For the purpose of
the limitation on the amount of the credit that may be claimed by
a company for tax year 2004, tax credit certificates issued for
tax year 2002 or 2003 shall not be considered as being claimed for
tax year 2004.

(C) A taxpayer who proposes to conduct an eligible training
program may apply to the director of job and family services for a
tax credit certificate under this section. The taxpayer may apply
for such a certificate for ~~each tax year with respect to a~~
~~calendar year in which the taxpayer paid or incurred eligible~~
~~training costs~~ tax years 2004, 2005, and 2006, subject to ~~division~~
divisions (B) and (L) of this section. The director shall
prescribe the form of the application, which shall require a
detailed description of the proposed training program. The

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director may require applicants to remit an application fee with 42201
each application filed with the director. The fee shall not exceed 42202
the reasonable and necessary expenses incurred by the director in 42203
receiving, reviewing, and approving such applications and issuing 42204
tax credit certificates. Proceeds from fees shall be used solely 42205
for the purpose of receiving, reviewing, and approving such 42206
applications and issuing such certificates. 42207

After receipt of an application, the director shall authorize 42208
a credit under this section by issuing a tax credit certificate, 42209
in the form prescribed by the director, if the director determines 42210
all of the following: 42211

(1) The proposed training program is an eligible training 42212
program under this section; 42213

(2) The proposed training program is economically sound and 42214
will benefit the people of this state by improving workforce 42215
skills and strengthening the economy of this state; 42216

(3) Receiving the tax credit is a major factor in the 42217
taxpayer's decision to go forward with the training program; 42218

(4) Authorization of the credit is consistent with division 42219
(H) of this section. 42220

The credit also is allowed for a taxpayer that is a partner 42221
in a partnership that pays or incurs eligible training costs. Such 42222
a taxpayer shall determine the taxpayer's credit amount in the 42223
manner prescribed by division (K) of this section. 42224

(D) If the director of job and family services denies an 42225
application for a tax credit certificate, the director shall send 42226
notice of the denial and the reason for denial to the applicant by 42227
certified mail, return receipt requested. If the director 42228
determines that an authorized training program, as actually 42229
conducted, fails to meet the requirements of this section or to 42230
comply with any condition set forth in the authorization, the 42231

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director may reduce the amount of the tax credit previously
granted. If the director reduces a tax credit, the director shall
send notice of the reduction and the reason for the reduction to
the taxpayer by certified mail, return receipt requested, and
shall certify the reduction to the tax commissioner or, in the
case of the reduction of a credit claimed by an insurance company,
the superintendent of insurance. The tax commissioner or
superintendent of insurance shall reduce the credit that may be
claimed by the taxpayer accordingly. Within sixty days after
receiving a notice of denial or notice of reduction of the tax
credit, an applicant or taxpayer may request, in writing, a
hearing before the director to review the denial or reduction.
Within sixty days after receiving a request that is filed within
the prescribed time, the director shall hold such a hearing at a
location to be determined by the director. Within thirty days
after the hearing is adjourned, the director shall issue a
redetermination affirming, reversing, or modifying the denial or
reduction of the tax credit and send notice of the redetermination
to the applicant or taxpayer by certified mail, return receipt
requested, and shall issue a notice of the redetermination to the
tax commissioner or superintendent of insurance. If an applicant
or taxpayer is aggrieved by the director's redetermination, the
applicant or taxpayer may appeal the redetermination to the board
of tax appeals in the manner prescribed by section 5717.02 of the
Revised Code.

(E) A taxpayer to which a tax credit certificate is issued
shall retain records indicating the eligible training costs it
pays or incurs for the eligible training program for which the
certificate is issued for four years following the end of the tax
year for which the credit is claimed. Such records shall be open
to inspection by the director of job and family services upon the
director's request during business hours.

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Financial statements and other information submitted by an 42264
applicant to the director of job and family services for a tax 42265
credit under this section, and any information taken for any 42266
purpose from such statements or information, are not public 42267
records subject to section 149.43 of the Revised Code. However, 42268
the director of job and family services, the tax commissioner, or 42269
superintendent of insurance may make use of the statements and 42270
other information for purposes of issuing public reports or in 42271
connection with court proceedings concerning tax credits allowed 42272
under this section and sections 5725.31, 5729.07, and 5747.39 of 42273
the Revised Code. 42274

(F) The director of job and family services, in accordance 42275
with Chapter 119. of the Revised Code, shall adopt rules necessary 42276
to implement this section and sections 5725.31, 5729.07, and 42277
5747.39 of the Revised Code. The rules shall be adopted after 42278
consultation with the tax commissioner and the superintendent of 42279
insurance. At the time the director gives public notice under 42280
division (A) of section 119.03 of the Revised Code of the adoption 42281
of the rules, the director shall submit copies of the proposed 42282
rules to the chairpersons and ranking minority members of the 42283
standing committees in the senate and the house of representatives 42284
to which legislation on economic development matters are 42285
customarily referred. 42286

(G) On or before the thirtieth day of September of ~~2001,~~ 42287
~~2002,~~ 2003, ~~and~~ 2004, 2005, and 2006, the director of job and 42288
family services shall submit a report to the governor, the 42289
president of the senate, and the speaker of the house of 42290
representatives on the tax credit program under this section and 42291
sections 5725.31, 5729.07, and 5747.39 of the Revised Code. The 42292
report shall include information on the number of training 42293
programs that were authorized under those sections during the 42294
preceding calendar year, a description of each authorized training 42295

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program, the dollar amounts of the credits granted, and an 42296
estimate of the impact of the credits on the economy of this 42297
state. 42298

(H) The aggregate amount of credits authorized under this 42299
section and sections 5725.31, 5729.07, and 5747.39 of the Revised 42300
Code shall not exceed twenty million dollars per calendar year. No 42301
more than ten million dollars in credits per calendar year shall 42302
be authorized for persons engaged primarily in manufacturing. No 42303
less than five million dollars in credits per calendar year shall 42304
be set aside for persons engaged primarily in activities other 42305
than manufacturing and having fewer than five hundred employees. 42306
Subject to such limits, credits shall be authorized for applicants 42307
meeting the requirements of this section in the order in which 42308
they submit complete and accurate applications. 42309

(I) A nonrefundable credit allowed under this section shall 42310
be claimed in the order required under section 5733.98 of the 42311
Revised Code. 42312

(J) The taxpayer may carry forward any credit amount in 42313
excess of its tax due after allowing for any other credits that 42314
precede the credit under this section in the order required under 42315
section 5733.98 of the Revised Code. The excess credit may be 42316
carried forward for three years following the tax year for which 42317
it is first claimed under this section. 42318

(K) A taxpayer that is a partner in a partnership on the last 42319
day of the third calendar year of the three-year period during 42320
which the partnership pays or incurs eligible training costs may 42321
claim a credit under this section for the tax year immediately 42322
following that calendar year. The amount of a partner's credit 42323
equals the partner's interest in the partnership on the last day 42324
of such calendar year multiplied by the credit available to the 42325
partnership as computed by the partnership. 42326

(L) The director of job and family services shall not 42327

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authorize any credits under this section and sections 5725.31, 42328
5729.07, and 5747.39 of the Revised Code for eligible training 42329
costs paid or incurred after December 31, ~~2003~~ 2005. 42330

Sec. 5735.06. (A) On or before the last day of each month, 42331
each motor fuel dealer shall file with the ~~treasurer of state tax~~ 42332
commissioner a report for the preceding calendar month, on forms 42333
prescribed by or in a form acceptable to the tax commissioner. The 42334
report shall include the following information: 42335

(1) An itemized statement of the number of gallons of all 42336
motor fuel received during the preceding calendar month by such 42337
motor fuel dealer, which has been produced, refined, prepared, 42338
distilled, manufactured, blended, or compounded by such motor fuel 42339
dealer in the state; 42340

(2) An itemized statement of the number of gallons of all 42341
motor fuel received by such motor fuel dealer in the state from 42342
any source during the preceding calendar month, other than motor 42343
fuel included in division (A)(1) of this section, together with a 42344
statement showing the date of receipt of such motor fuel; the name 42345
of the person from whom purchased or received; the date of receipt 42346
of each shipment of motor fuel; the point of origin and the point 42347
of destination of each shipment; the quantity of each of said 42348
purchases or shipments; the name of the carrier; the number of 42349
gallons contained in each car if shipped by rail; the point of 42350
origin, destination, and shipper if shipped by pipe line; or the 42351
name and owner of the boat, barge, or vessel if shipped by water; 42352

(3) An itemized statement of the number of gallons of motor 42353
fuel which such motor fuel dealer has during the preceding 42354
calendar month: 42355

(a) For motor fuel other than gasoline sold for use other 42356
than for operating motor vehicles on the public highways or on 42357
waters within the boundaries of this state; 42358

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(b) Exported from this state to any other state or foreign country as provided in division (A)(3) of section 5735.05 of the Revised Code; 42359 42360 42361

(c) Sold to the United States government or any of its agencies; 42362 42363

(d) Sold for delivery to motor fuel dealers; 42364

(e) Sold exclusively for use in the operation of aircraft; 42365

(4) Such other information incidental to the enforcement of the motor fuel laws of the state as the commissioner requires. 42366 42367

(B) The report shall show the tax due, computed as follows: 42368

(1) The following deductions shall be made from the total number of gallons of motor fuel received by the motor fuel dealer within the state during the preceding calendar month: 42369 42370 42371

(a) The total number of gallons of motor fuel received by the motor fuel dealer within the state and sold or otherwise disposed of during the preceding calendar month as set forth in section 5735.05 of the Revised Code; 42372 42373 42374 42375

(b) The total number of gallons received during the preceding calendar month and sold or otherwise disposed of to another licensed motor fuel dealer pursuant to section 5735.05 of the Revised Code; 42376 42377 42378 42379

(c) To cover the costs of the motor fuel dealer in compiling the report, and evaporation, shrinkage, or other unaccounted-for losses: 42380 42381 42382

(i) If the report is timely filed and the tax is timely paid, three per cent of the total number of gallons of motor fuel received by the motor fuel dealer within the state during the preceding calendar month less the total number of gallons deducted under divisions (B)(1)(a) and (b) of this section, less one per cent of the total number of gallons of motor fuel that were sold 42383 42384 42385 42386 42387 42388

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to a retail dealer during the preceding calendar month; 42389

(ii) If the report required by division (A) of this section 42390
is not timely filed and the tax is not timely paid, no deduction 42391
shall be allowed; 42392

(iii) If the report is incomplete, no deduction shall be 42393
allowed for any fuel on which the tax is not timely reported and 42394
paid; 42395

(2) The number of gallons remaining after the deductions have 42396
been made shall be multiplied separately by each of the following 42397
amounts: 42398

(a) The cents per gallon rate; 42399

(b) Two cents. 42400

The sum of the products obtained in divisions (B)(2)(a) and 42401
(b) of this section shall be the amount of motor fuel tax for the 42402
preceding calendar month. 42403

(C) The report shall be filed together with payment of the 42404
tax shown on the report to be due, unless the motor fuel dealer is 42405
required by section 5735.062 of the Revised Code to pay the tax by 42406
electronic funds transfer, in which case the dealer shall file the 42407
report pursuant to this section and pay the tax pursuant to 42408
section 5735.062 of the Revised Code. The commissioner may extend 42409
the time for filing reports and may remit all or part of penalties 42410
which may become due under sections 5735.01 to 5735.99 of the 42411
Revised Code. ~~The treasurer of state shall stamp or otherwise mark~~ 42412
~~on all returns the date received by the treasurer and shall also~~ 42413
~~show thereon by stamp or otherwise the amount of payment received~~ 42414
~~for the month for which the report is filed. Thereafter, the~~ 42415
~~treasurer of state shall immediately transmit all reports filed~~ 42416
~~under this section to the commissioner.~~ For purposes of this 42417
section and sections 5735.062 and 5735.12 of the Revised Code, a 42418
report required to be filed under this section is considered filed 42419

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when it is received by the ~~treasurer of state~~ tax commissioner, 42420
and remittance of the tax due is considered to be made when the 42421
remittance is received by the ~~treasurer of state~~ tax commissioner 42422
or when credited to an account designated by the treasurer of 42423
state and the tax commissioner for the receipt of tax remittances. 42424
The tax commissioner shall immediately forward to the treasurer of 42425
state all amounts received under this section. 42426

(D) The tax commissioner may require a motor fuel dealer to 42427
file a report for a period other than one month. Such a report, 42428
together with payment of the tax, shall be filed not later than 42429
thirty days after the last day of the prescribed reporting period. 42430

(E) No person required by this section to file a tax report 42431
shall file a false or fraudulent tax report or supporting 42432
schedule. 42433

Sec. 5735.061. (A) By the fifteenth day of June of 1988, 42434
1989, 1990, 1991, 1992, and 1993, the tax commissioner shall 42435
certify to each dealer the following: 42436

(1) The cents per gallon rate computed for the period that 42437
begins on the first day of July of the current year pursuant to 42438
section 5735.011 of the Revised Code; 42439

(2) The difference between the cents per gallon rate 42440
presently in effect and the cents per gallon rate referred to in 42441
division (A)(1) of this section. 42442

(B) By the thirty-first day of July of each year each motor 42443
fuel dealer shall file with the ~~treasurer of state~~ tax 42444
commissioner, on forms prescribed by the commissioner, a report 42445
signed by the motor fuel dealer showing the total number of 42446
gallons of all motor fuel that is held in the inventory of such 42447
motor fuel dealer as of the beginning of business on the first day 42448
of July of such year and on which the motor fuel tax has been 42449
paid. 42450

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(C) If the cents per gallon rate referred to in division 42451
(A)(1) of this section is greater than the cents per gallon rate 42452
it replaced, each motor fuel dealer shall pay to the ~~treasurer of~~ 42453
~~state tax commissioner~~, upon the filing of the report under 42454
division (B) of this section, an amount equal to the product 42455
obtained by multiplying the gallonage referred to in division (B) 42456
of this section by the cents per gallon rate difference referred 42457
to in division (A)(2) of this section. ~~Taxes collected pursuant to~~ 42458
The tax commissioner shall immediately forward to the treasurer of 42459
state all money collected under this section, and such money shall 42460
be treated as revenue arising from the tax levied pursuant to 42461
section 5735.05 of the Revised Code. 42462

(D) If the cents per gallon rate referred to in division 42463
(A)(1) of this section is lower than the cents per gallon rate it 42464
replaced, each motor fuel dealer shall be entitled to a refund in 42465
an amount equal to the product obtained by multiplying the 42466
gallonage referred to in division (B) of this section by the cents 42467
per gallon rate difference referred to in division (A)(2) of this 42468
section. Within forty-five days from the date the motor fuel 42469
dealer files a report pursuant to division (B) of this section, 42470
the tax commissioner shall certify the amount of the refund to the 42471
director of budget and management and treasurer of state for 42472
payment from the tax refund fund created by section 5703.052 of 42473
the Revised Code. 42474

Sec. 5739.01. As used in this chapter: 42475

(A) "Person" includes individuals, receivers, assignees, 42476
trustees in bankruptcy, estates, firms, partnerships, 42477
associations, joint-stock companies, joint ventures, clubs, 42478
societies, corporations, the state and its political subdivisions, 42479
and combinations of individuals of any form. 42480

(B) "Sale" and "selling" include all of the following 42481

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transactions for a consideration in any manner, whether absolutely 42482
or conditionally, whether for a price or rental, in money or by 42483
exchange, and by any means whatsoever: 42484

(1) All transactions by which title or possession, or both, 42485
of tangible personal property, is or is to be transferred, or a 42486
license to use or consume tangible personal property is or is to 42487
be granted; 42488

(2) All transactions by which lodging by a hotel is or is to 42489
be furnished to transient guests; 42490

(3) All transactions by which: 42491

(a) An item of tangible personal property is or is to be 42492
repaired, except property, the purchase of which would be exempt 42493
from the tax imposed by section 5739.02 of the Revised Code; 42494

(b) An item of tangible personal property is or is to be 42495
installed, except property, the purchase of which would be exempt 42496
from the tax imposed by section 5739.02 of the Revised Code or 42497
property that is or is to be incorporated into and will become a 42498
part of a production, transmission, transportation, or 42499
distribution system for the delivery of a public utility service; 42500

(c) The service of washing, cleaning, waxing, polishing, or 42501
painting a motor vehicle is or is to be furnished; 42502

(d) Industrial laundry cleaning services are or are to be 42503
provided; 42504

(e) Automatic data processing, computer services, or 42505
electronic information services are or are to be provided for use 42506
in business when the true object of the transaction is the receipt 42507
by the consumer of automatic data processing, computer services, 42508
or electronic information services rather than the receipt of 42509
personal or professional services to which automatic data 42510
processing, computer services, or electronic information services 42511

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are incidental or supplemental. Notwithstanding any other
provision of this chapter, such transactions that occur between
members of an affiliated group are not sales. An affiliated group
means two or more persons related in such a way that one person
owns or controls the business operation of another member of the
group. In the case of corporations with stock, one corporation
owns or controls another if it owns more than fifty per cent of
the other corporation's common stock with voting rights.

(f) Telecommunications service is provided that originates or
terminates in this state and is charged in the records of the
telecommunications service vendor to the consumer's telephone
number or account in this state, or that both originates and
terminates in this state; but does not include transactions by
which telecommunications service is paid for by using a prepaid
authorization number or prepaid telephone calling card, or by
which local telecommunications service is obtained from a
coin-operated telephone and paid for by using coin;

(g) Landscaping and lawn care service is or is to be
provided;

(h) Private investigation and security service is or is to be
provided;

(i) Information services or tangible personal property is
provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to
be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be
provided;

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(o) Recreation and sports club service is or is to be provided. 42542
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(4) All transactions by which printed, imprinted, 42544
overprinted, lithographic, multilithic, blueprinted, photostatic, 42545
or other productions or reproductions of written or graphic matter 42546
are or are to be furnished or transferred; 42547

(5) The production or fabrication of tangible personal 42548
property for a consideration for consumers who furnish either 42549
directly or indirectly the materials used in the production of 42550
fabrication work; and include the furnishing, preparing, or 42551
serving for a consideration of any tangible personal property 42552
consumed on the premises of the person furnishing, preparing, or 42553
serving such tangible personal property. Except as provided in 42554
section 5739.03 of the Revised Code, a construction contract 42555
pursuant to which tangible personal property is or is to be 42556
incorporated into a structure or improvement on and becoming a 42557
part of real property is not a sale of such tangible personal 42558
property. The construction contractor is the consumer of such 42559
tangible personal property, provided that the sale and 42560
installation of carpeting, the sale and installation of 42561
agricultural land tile, the sale and erection or installation of 42562
portable grain bins, or the provision of landscaping and lawn care 42563
service and the transfer of property as part of such service is 42564
never a construction contract. The transfer of copyrighted motion 42565
picture films for exhibition purposes is not a sale, except such 42566
films as are used solely for advertising purposes. Other than as 42567
provided in this section, "sale" and "selling" do not include 42568
professional, insurance, or personal service transactions ~~which~~ 42569
that involve the transfer of tangible personal property as an 42570
inconsequential element, for which no separate charges are made. 42571

As used in division (B)(5) of this section: 42572

(a) "Agricultural land tile" means fired clay or concrete 42573

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tile, or flexible or rigid perforated plastic pipe or tubing, 42574
incorporated or to be incorporated into a subsurface drainage 42575
system appurtenant to land used or to be used directly in 42576
production by farming, agriculture, horticulture, or floriculture. 42577
The term does not include such materials when they are or are to 42578
be incorporated into a drainage system appurtenant to a building 42579
or structure even if the building or structure is used or to be 42580
used in such production. 42581

(b) "Portable grain bin" means a structure that is used or to 42582
be used by a person engaged in farming or agriculture to shelter 42583
the person's grain and that is designed to be disassembled without 42584
significant damage to its component parts. 42585

(6) All transactions in which all of the shares of stock of a 42586
closely held corporation are transferred, if the corporation is 42587
not engaging in business and its entire assets consist of boats, 42588
planes, motor vehicles, or other tangible personal property 42589
operated primarily for the use and enjoyment of the shareholders; 42590

(7) All transactions in which a warranty, maintenance or 42591
service contract, or similar agreement by which the vendor of the 42592
warranty, contract, or agreement agrees to repair or maintain the 42593
tangible personal property of the consumer is or is to be 42594
provided; 42595

(8) All transactions by which a prepaid authorization number 42596
or a prepaid telephone calling card is or is to be transferred. 42597

(C) "Vendor" means the person providing the service or by 42598
whom the transfer effected or license given by a sale is or is to 42599
be made or given and, for sales described in division (B)(3)(i) of 42600
this section, the telecommunications service vendor that provides 42601
the nine hundred telephone service; if two or more persons are 42602
engaged in business at the same place of business under a single 42603
trade name in which all collections on account of sales by each 42604

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are made, such persons shall constitute a single vendor.

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

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

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale

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under division (E)(1) of this section.

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

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

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(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

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

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(E) "Retail sale" and "sales at retail" include all sales except those in which the purpose of the consumer is:

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(1) To resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person;

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(2) To incorporate the thing transferred as a material or a 42668
part, into tangible personal property to be produced for sale by 42669
manufacturing, assembling, processing, or refining, or to use or 42670
consume the thing transferred directly in producing a product for 42671
sale by mining, including without limitation the extraction from 42672
the earth of all substances ~~which~~ that are classed geologically as 42673
minerals, production of crude oil and natural gas, farming, 42674
agriculture, horticulture, or floriculture, and persons engaged in 42675
rendering farming, agricultural, horticultural, or floricultural 42676
services, and services in the exploration for, and production of, 42677
crude oil and natural gas, for others are deemed engaged directly 42678
in farming, agriculture, horticulture, and floriculture, or 42679
exploration for, and production of, crude oil and natural gas; 42680
directly in the rendition of a public utility service, except that 42681
the sales tax levied by section 5739.02 of the Revised Code shall 42682
be collected upon all meals, drinks, and food for human 42683
consumption sold upon Pullman and railroad coaches. This paragraph 42684
does not exempt or except from "retail sale" or "sales at retail" 42685
the sale of tangible personal property that is to be incorporated 42686
into a structure or improvement to real property. 42687

(3) To hold the thing transferred as security for the 42688
performance of an obligation of the vendor; 42689

(4) To use or consume the thing transferred in the process of 42690
reclamation as required by Chapters 1513. and 1514. of the Revised 42691
Code; 42692

(5) To resell, hold, use, or consume the thing transferred as 42693
evidence of a contract of insurance; 42694

(6) To use or consume the thing directly in commercial 42695
fishing; 42696

(7) To incorporate the thing transferred as a material or a 42697
part into, or to use or consume the thing transferred directly in 42698

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the production of, magazines distributed as controlled circulation publications;	42699 42700
(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;	42701 42702 42703 42704 42705
(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;	42706 42707 42708
(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;	42709 42710 42711 42712 42713 42714
(11) To use the thing transferred as qualified research and development equipment;	42715 42716
(12) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. Division (E)(12) of this section does not apply to motor vehicles registered for operation on the public highways. As used in division (E)(12) of this section, "affiliated group" has the same meaning as in division (B)(3)(e) of this section and "direct marketing" has the same meaning as in division (B)(37) of section 5739.02 of the Revised Code.	42717 42718 42719 42720 42721 42722 42723 42724 42725 42726 42727 42728 42729

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(13) To use or consume the thing transferred to fulfill a 42730
contractual obligation incurred by a warrantor pursuant to a 42731
warranty provided as a part of the price of the tangible personal 42732
property sold or by a vendor of a warranty, maintenance or service 42733
contract, or similar agreement the provision of which is defined 42734
as a sale under division (B)(7) of this section; 42735

(14) To use or consume the thing transferred in the 42736
production of a newspaper for distribution to the public; 42737

(15) To use tangible personal property to perform a service 42738
listed in division (B)(3) of this section, if the property is or 42739
is to be permanently transferred to the consumer of the service as 42740
an integral part of the performance of the service. 42741

As used in division (E) of this section, "thing" includes all 42742
transactions included in divisions (B)(3)(a), (b), and (e) of this 42743
section. 42744

Sales conducted through a coin-operated device that activates 42745
vacuum equipment or equipment that dispenses water, whether or not 42746
in combination with soap or other cleaning agents or wax, to the 42747
consumer for the consumer's use on the premises in washing, 42748
cleaning, or waxing a motor vehicle, provided no other personal 42749
property or personal service is provided as part of the 42750
transaction, are not retail sales or sales at retail. 42751

(F) "Business" includes any activity engaged in by any person 42752
with the object of gain, benefit, or advantage, either direct or 42753
indirect. "Business" does not include the activity of a person in 42754
managing and investing the person's own funds. 42755

(G) "Engaging in business" means commencing, conducting, or 42756
continuing in business, and liquidating a business when the 42757
liquidator thereof holds ~~self~~ itself out to the public as 42758
conducting such business. Making a casual sale is not engaging in 42759
business. 42760

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(H)(1) "Price," except as provided in divisions (H)(2) and 42761
(3) of this section, means the aggregate value in money of 42762
anything paid or delivered, or promised to be paid or delivered, 42763
in the complete performance of a retail sale, without any 42764
deduction on account of the cost of the property sold, cost of 42765
materials used, labor or service cost, interest, discount paid or 42766
allowed after the sale is consummated, or any other expense. If 42767
the retail sale consists of the rental or lease of tangible 42768
personal property, "price" means the aggregate value in money of 42769
anything paid or delivered, or promised to be paid or delivered, 42770
in the complete performance of the rental or lease, without any 42771
deduction for tax, interest, labor or service charge, damage 42772
liability waiver, termination or damage charge, discount paid or 42773
allowed after the lease is consummated, or any other expense. The 42774
sales tax shall be calculated and collected by the lessor on each 42775
payment made by the lessee. Price does not include the 42776
consideration received as a deposit refundable to the consumer 42777
upon return of a beverage container, the consideration received as 42778
a deposit on a carton or case that is used for such returnable 42779
containers, or the consideration received as a refundable security 42780
deposit for the use of tangible personal property to the extent 42781
that it actually is refunded, if the consideration for such 42782
refundable deposit is separately stated from the consideration 42783
received or to be received for the tangible personal property 42784
transferred in the retail sale. Such separation must appear in the 42785
sales agreement or on the initial invoice or initial billing 42786
rendered by the vendor to the consumer. Price is the amount 42787
received inclusive of the tax, provided the vendor establishes to 42788
the satisfaction of the tax commissioner that the tax was added to 42789
the price. When the price includes both a charge for tangible 42790
personal property and a charge for providing a service and the 42791
sale of the property and the charge for the service are separately 42792
taxable, or have a separately determinable tax status, the price 42793

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shall be separately stated for each such charge so the tax can be
correctly computed and charged.

The tax collected by the vendor from the consumer under this
chapter is not part of the price, but is a tax collection for the
benefit of the state and of counties levying an additional sales
tax pursuant to section 5739.021 or 5739.026 of the Revised Code
and of transit authorities levying an additional sales tax
pursuant to section 5739.023 of the Revised Code. Except for the
discount authorized in section 5739.12 of the Revised Code, no
person other than the state or such a county or transit authority
shall derive any benefit from the collection or payment of such
tax.

(2) In the case of a sale of any new motor vehicle by a new
motor vehicle dealer, as defined in section 4517.01 of the Revised
Code, in which another motor vehicle is accepted by the dealer as
part of the consideration received, "price" has the same meaning
as in division (H)(1) of this section, reduced by the credit
afforded the consumer by the dealer for the motor vehicle received
in trade.

(3) In the case of a sale of any watercraft or outboard motor
by a watercraft dealer licensed in accordance with section
1547.543 of the Revised Code, in which another watercraft,
watercraft and trailer, or outboard motor is accepted by the
dealer as part of the consideration received, "price" has the same
meaning as in division (H)(1) of this section, reduced by the
credit afforded the consumer by the dealer for the watercraft,
watercraft and trailer, or outboard motor received in trade. As
used in division (H)(3) of this section, "watercraft" includes an
outdrive unit attached to the watercraft.

(I) "Receipts" means the total amount of the prices of the
sales of vendors, provided that cash discounts allowed and taken
on sales at the time they are consummated are not included, minus

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any amount deducted as a bad debt pursuant to section 5739.121 of
the Revised Code. "Receipts" does not include the sale price of
property returned or services rejected by consumers when the full
sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person
engages in business.

(K) "Premises" includes any real property or portion thereof
upon which any person engages in selling tangible personal
property at retail or making retail sales and also includes any
real property or portion thereof designated for, or devoted to,
use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible
personal property ~~which~~ that was obtained by the person making the
sale, through purchase or otherwise, for the person's own use in
this state and ~~which~~ was previously subject to any state's taxing
jurisdiction on its sale or use, and includes such items acquired
for the seller's use ~~which~~ that are sold by an auctioneer employed
directly by the person for such purpose, provided the location of
such sales is not the auctioneer's permanent place of business. As
used in this division, "permanent place of business" includes any
location where such auctioneer has conducted more than two
auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained,
advertised, or held out to the public to be a place where sleeping
accommodations are offered to guests⁷. "Hotel" includes only those
establishments in which five or more rooms are used for the
accommodation of such guests, whether ~~such~~ the rooms are in one or
several structures, except as specified by a board of county
commissioners, a board of township trustees, or the legislative
authority of a municipal corporation as provided in division (G)
of section 5739.024 of the Revised Code.

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(N) "Transient guests" means persons occupying a room or 42857
rooms for sleeping accommodations for less than thirty consecutive 42858
days. 42859

(O) "Making retail sales" means the effecting of transactions 42860
wherein one party is obligated to pay the price and the other 42861
party is obligated to provide a service or to transfer title to or 42862
possession of the item sold. "Making retail sales" does not 42863
include the preliminary acts of promoting or soliciting the retail 42864
sales, other than the distribution of printed matter which 42865
displays or describes and prices the item offered for sale, nor 42866
does it include delivery of a predetermined quantity of tangible 42867
personal property or transportation of property or personnel to or 42868
from a place where a service is performed, regardless of whether 42869
the vendor is a delivery vendor. 42870

(P) "Used directly in the rendition of a public utility 42871
service" means that property which is to be incorporated into and 42872
will become a part of the consumer's production, transmission, 42873
transportation, or distribution system and ~~which~~ that retains its 42874
classification as tangible personal property after such 42875
incorporation; fuel or power used in the production, transmission, 42876
transportation, or distribution system; and tangible personal 42877
property used in the repair and maintenance of the production, 42878
transmission, transportation, or distribution system, including 42879
only such motor vehicles as are specially designed and equipped 42880
for such use. Tangible personal property and services used 42881
primarily in providing highway transportation for hire are not 42882
used in providing a public utility service as defined in this 42883
division. 42884

(Q) "Refining" means removing or separating a desirable 42885
product from raw or contaminated materials by distillation or 42886
physical, mechanical, or chemical processes. 42887

(R) "Assembly" and "assembling" mean attaching or fitting 42888

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together parts to form a product, but do not include packaging a
product. 42889
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(S) "Manufacturing operation" means a process in which 42891
materials are changed, converted, or transformed into a different 42892
state or form from which they previously existed and includes 42893
refining materials, assembling parts, and preparing raw materials 42894
and parts by mixing, measuring, blending, or otherwise committing 42895
such materials or parts to the manufacturing process. 42896
"Manufacturing operation" does not include packaging. 42897

(T) "Fiscal officer" means, with respect to a regional 42898
transit authority, the secretary-treasurer thereof, and with 42899
respect to a county ~~which~~ that is a transit authority, the fiscal 42900
officer of the county transit board if one is appointed pursuant 42901
to section 306.03 of the Revised Code or the county auditor if the 42902
board of county commissioners operates the county transit system. 42903

(U) "Transit authority" means a regional transit authority 42904
created pursuant to section 306.31 of the Revised Code or a county 42905
in which a county transit system is created pursuant to section 42906
306.01 of the Revised Code. For the purposes of this chapter, a 42907
transit authority must extend to at least the entire area of a 42908
single county. A transit authority ~~which~~ that includes territory 42909
in more than one county must include all the area of the most 42910
populous county ~~which~~ that is a part of such transit authority. 42911
County population shall be measured by the most recent census 42912
taken by the United States census bureau. 42913

(V) "Legislative authority" means, with respect to a regional 42914
transit authority, the board of trustees thereof, and with respect 42915
to a county ~~which~~ that is a transit authority, the board of county 42916
commissioners. 42917

(W) "Territory of the transit authority" means all of the 42918
area included within the territorial boundaries of a transit 42919

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authority as they from time to time exist. Such territorial
boundaries must at all times include all the area of a single
county or all the area of the most populous county ~~which~~ that is a
part of such transit authority. County population shall be
measured by the most recent census taken by the United States
census bureau.

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

(Y)(1)(a) "Automatic data processing" means processing of
others' data, including keypunching or similar data entry services
together with verification thereof, or providing access to
computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting
of specifying computer hardware configurations and evaluating
technical processing characteristics, computer programming, and
training of computer programmers and operators, provided in
conjunction with and to support the sale, lease, or operation of
taxable computer equipment or systems.

(c) "Electronic information services" means providing access
to computer equipment by means of telecommunications equipment for
the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to
the computer equipment;

(ii) Placing data into the computer equipment to be retrieved
by designated recipients with access to the computer equipment.

(d) "Automatic data processing, computer services, or
electronic information services" shall not include personal or
professional services.

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- (2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:
- (a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;
 - (b) Analyzing business policies and procedures;
 - (c) Identifying management information needs;
 - (d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;
 - (e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;
 - (f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;
 - (g) Testing of business procedures;
 - (h) Training personnel in business procedure applications;
 - (i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;
 - (j) Providing debt collection services by any oral, written,

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graphic, or electronic means. 42980

The services listed in divisions (Y)(2)(a) to (j) of this 42981
section are not automatic data processing or computer services. 42982

(Z) "Highway transportation for hire" means the 42983
transportation of personal property belonging to others for 42984
consideration by any of the following: 42985

(1) The holder of a permit or certificate issued by this 42986
state or the United States authorizing the holder to engage in 42987
transportation of personal property belonging to others for 42988
consideration over or on highways, roadways, streets, or any 42989
similar public thoroughfare; 42990

(2) A person who engages in the transportation of personal 42991
property belonging to others for consideration over or on 42992
highways, roadways, streets, or any similar public thoroughfare 42993
but who could not have engaged in such transportation on December 42994
11, 1985, unless the person was the holder of a permit or 42995
certificate of the types described in division (Z)(1) of this 42996
section; 42997

(3) A person who leases a motor vehicle to and operates it 42998
for a person described by division (Z)(1) or (2) of this section. 42999

(AA) "Telecommunications service" means the transmission of 43000
any interactive, two-way electromagnetic communications, including 43001
voice, image, data, and information, through the use of any medium 43002
such as wires, cables, microwaves, cellular radio, radio waves, 43003
light waves, or any combination of those or similar media. 43004
"Telecommunications service" includes message toll service even 43005
though the vendor provides the message toll service by means of 43006
wide area transmission type service or private communications 43007
service purchased from another telecommunications service 43008
provider, but does not include any of the following: 43009

(1) Sales of incoming or outgoing wide area transmission 43010

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service or wide area transmission type service, including eight 43011
hundred or eight-hundred-type service, to the person contracting 43012
for the receipt of that service; 43013

(2) Sales of private communications service to the person 43014
contracting for the receipt of that service that entitles the 43015
purchaser to exclusive or priority use of a communications channel 43016
or group of channels between exchanges; 43017

(3) Sales of telecommunications service by companies subject 43018
to the excise tax imposed by Chapter 5727. of the Revised Code; 43019

(4) Sales of telecommunications service to a provider of 43020
telecommunications service, including access services, for use in 43021
providing telecommunications service; 43022

(5) Value-added nonvoice services in which computer 43023
processing applications are used to act on the form, content, 43024
code, or protocol of the information to be transmitted; 43025

(6) Transmission of interactive video programming by a cable 43026
television system as defined in section 505.90 of the Revised 43027
Code. 43028

(BB) "Industrial laundry cleaning services" means removing 43029
soil or dirt from or supplying towels, linens, or articles of 43030
clothing that belong to others and are used in a trade or 43031
business. 43032

(CC) "Magazines distributed as controlled circulation 43033
publications" means magazines containing at least twenty-four 43034
pages, at least twenty-five per cent editorial content, issued at 43035
regular intervals four or more times a year, and circulated 43036
without charge to the recipient, provided that such magazines are 43037
not owned or controlled by individuals or business concerns which 43038
conduct such publications as an auxiliary to, and essentially for 43039
the advancement of the main business or calling of, those who own 43040
or control them. 43041

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(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year.

(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

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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

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personnel performing the work are not under the direct control of 43106
the purchaser. 43107

(2) Medical and health care services. 43108

(3) Supplying personnel to a purchaser pursuant to a contract 43109
of at least one year between the service provider and the 43110
purchaser that specifies that each employee covered under the 43111
contract is assigned to the purchaser on a permanent basis. 43112

(4) Transactions between members of an affiliated group, as 43113
defined in division (B)(3)(e) of this section. 43114

(KK) "Employment placement service" means locating or finding 43115
employment for a person or finding or locating an employee to fill 43116
an available position. 43117

(LL) "Exterminating service" means eradicating or attempting 43118
to eradicate vermin infestations from a building or structure, or 43119
the area surrounding a building or structure, and includes 43120
activities to inspect, detect, or prevent vermin infestation of a 43121
building or structure. 43122

(MM) "Physical fitness facility service" means all 43123
transactions by which a membership is granted, maintained, or 43124
renewed, including initiation fees, membership dues, renewal fees, 43125
monthly minimum fees, and other similar fees and dues, by a 43126
physical fitness facility such as an athletic club, health spa, or 43127
gymnasium, which entitles the member to use the facility for 43128
physical exercise. 43129

(NN) "Recreation and sports club service" means all 43130
transactions by which a membership is granted, maintained, or 43131
renewed, including initiation fees, membership dues, renewal fees, 43132
monthly minimum fees, and other similar fees and dues, by a 43133
recreation and sports club, which entitles the member to use the 43134
facilities of the organization. "Recreation and sports club" means 43135
an organization that has ownership of, or controls or leases on a 43136

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continuing, long-term basis, the facilities used by its members 43137
and includes an aviation club, gun or shooting club, yacht club, 43138
card club, swimming club, tennis club, golf club, country club, 43139
riding club, amateur sports club, or similar organization. 43140

(OO) "Livestock" means farm animals commonly raised for food 43141
or food production, and includes but is not limited to cattle, 43142
sheep, goats, swine, and poultry. "Livestock" does not include 43143
invertebrates, fish, amphibians, reptiles, horses, domestic pets, 43144
animals for use in laboratories or for exhibition, or other 43145
animals not commonly raised for food or food production. 43146

(PP) "Livestock structure" means a building or structure used 43147
exclusively for the housing, raising, feeding, or sheltering of 43148
livestock, and includes feed storage or handling structures and 43149
structures for livestock waste handling. 43150

(QQ) "Horticulture" means the growing, cultivation, and 43151
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 43152
and nursery stock. As used in this division, "nursery stock" has 43153
the same meaning as in section 927.51 of the Revised Code. 43154

(RR) "Horticulture structure" means a building or structure 43155
used exclusively for the commercial growing, raising, or 43156
overwintering of horticultural products, and includes the area 43157
used for stocking, storing, and packing horticultural products 43158
when done in conjunction with the production of those products. 43159

(SS) "Newspaper" means an unbound publication bearing a title 43160
or name that is regularly published, at least as frequently as 43161
biweekly, and distributed from a fixed place of business to the 43162
public in a specific geographic area, and that contains a 43163
substantial amount of news matter of international, national, or 43164
local events of interest to the general public. 43165

(TT) "Professional racing team" means a person that employs 43166
at least twenty full-time employees for the purpose of conducting 43167

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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. 5739.02. For the purpose of providing revenue with which
to meet the needs of the state, for the use of the general revenue
fund of the state, for the purpose of securing a thorough and

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efficient system of common schools throughout the state, for the 43199
purpose of affording revenues, in addition to those from general 43200
property taxes, permitted under constitutional limitations, and 43201
from other sources, for the support of local governmental 43202
functions, and for the purpose of reimbursing the state for the 43203
expense of administering this chapter, an excise tax is hereby 43204
levied on each retail sale made in this state. 43205

(A) The tax shall be collected pursuant to the schedules in 43206
section 5739.025 of the Revised Code. 43207

The tax applies and is collectible when the sale is made, 43208
regardless of the time when the price is paid or delivered. 43209

In the case of a sale, the price of which consists in whole 43210
or in part of rentals for the use of the thing transferred, the 43211
tax, as regards such rentals, shall be measured by the 43212
installments thereof. 43213

In the case of a sale of a service defined under division 43214
(MM) or (NN) of section 5739.01 of the Revised Code, the price of 43215
which consists in whole or in part of a membership for the receipt 43216
of the benefit of the service, the tax applicable to the sale 43217
shall be measured by the installments thereof. 43218

(B) The tax does not apply to the following: 43219

(1) Sales to the state or any of its political subdivisions, 43220
or to any other state or its political subdivisions if the laws of 43221
that state exempt from taxation sales made to this state and its 43222
political subdivisions; 43223

(2) Sales of food for human consumption off the premises 43224
where sold; 43225

(3) Sales of food sold to students only in a cafeteria, 43226
dormitory, fraternity, or sorority maintained in a private, 43227
public, or parochial school, college, or university; 43228

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(4) Sales of newspapers, and of magazine subscriptions	43229
shipped by second class mail, and sales or transfers of magazines	43230
distributed as controlled circulation publications;	43231
(5) The furnishing, preparing, or serving of meals without	43232
charge by an employer to an employee provided the employer records	43233
the meals as part compensation for services performed or work	43234
done;	43235
(6) Sales of motor fuel upon receipt, use, distribution, or	43236
sale of which in this state a tax is imposed by the law of this	43237
state, but this exemption shall not apply to the sale of motor	43238
fuel on which a refund of the tax is allowable under section	43239
5735.14 of the Revised Code; and the tax commissioner may deduct	43240
the amount of tax levied by this section applicable to the price	43241
of motor fuel when granting a refund of motor fuel tax pursuant to	43242
section 5735.14 of the Revised Code and shall cause the amount	43243
deducted to be paid into the general revenue fund of this state;	43244
(7) Sales of natural gas by a natural gas company, of water	43245
by a water-works company, or of steam by a heating company, if in	43246
each case the thing sold is delivered to consumers through pipes	43247
or conduits, and all sales of communications services by a	43248
telephone or telegraph company, all terms as defined in section	43249
5727.01 of the Revised Code;	43250
(8) Casual sales by a person, or auctioneer employed directly	43251
by the person to conduct such sales, except as to such sales of	43252
motor vehicles, watercraft or outboard motors required to be	43253
titled under section 1548.06 of the Revised Code, watercraft	43254
documented with the United States coast guard, snowmobiles, and	43255
all-purpose vehicles as defined in section 4519.01 of the Revised	43256
Code;	43257
(9) Sales of services or tangible personal property, other	43258
than motor vehicles, mobile homes, and manufactured homes, by	43259

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churches, organizations exempt from taxation under section 43260
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 43261
organizations operated exclusively for charitable purposes as 43262
defined in division (B)(12) of this section, provided that the 43263
number of days on which such tangible personal property or 43264
services, other than items never subject to the tax, are sold does 43265
not exceed six in any calendar year. If the number of days on 43266
which such sales are made exceeds six in any calendar year, the 43267
church or organization shall be considered to be engaged in 43268
business and all subsequent sales by it shall be subject to the 43269
tax. In counting the number of days, all sales by groups within a 43270
church or within an organization shall be considered to be sales 43271
of that church or organization, except that sales made by separate 43272
student clubs and other groups of students of a primary or 43273
secondary school, and sales made by a parent-teacher association, 43274
booster group, or similar organization that raises money to 43275
support or fund curricular or extracurricular activities of a 43276
primary or secondary school, shall not be considered to be sales 43277
of such school, and sales by each such club, group, association, 43278
or organization shall be counted separately for purposes of the 43279
six-day limitation. This division does not apply to sales by a 43280
noncommercial educational radio or television broadcasting 43281
station. 43282

(10) Sales not within the taxing power of this state under 43283
the Constitution of the United States; 43284

(11) The transportation of persons or property, unless the 43285
transportation is by a private investigation and security service; 43286

(12) Sales of tangible personal property or services to 43287
churches, to organizations exempt from taxation under section 43288
501(c)(3) of the Internal Revenue Code of 1986, and to any other 43289
nonprofit organizations operated exclusively for charitable 43290
purposes in this state, no part of the net income of which inures 43291

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to the benefit of any private shareholder or individual, and no
substantial part of the activities of which consists of carrying
on propaganda or otherwise attempting to influence legislation;
sales to offices administering one or more homes for the aged or
one or more hospital facilities exempt under section 140.08 of the
Revised Code; and sales to organizations described in division (D)
of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the
improvement of health through the alleviation of illness, disease,
or injury; the operation of an organization exclusively for the
provision of professional, laundry, printing, and purchasing
services to hospitals or charitable institutions; the operation of
a home for the aged, as defined in section 5701.13 of the Revised
Code; the operation of a radio or television broadcasting station
that is licensed by the federal communications commission as a
noncommercial educational radio or television station; the
operation of a nonprofit animal adoption service or a county
humane society; the promotion of education by an institution of
learning that maintains a faculty of qualified instructors,
teaches regular continuous courses of study, and confers a
recognized diploma upon completion of a specific curriculum; the
operation of a parent-teacher association, booster group, or
similar organization primarily engaged in the promotion and
support of the curricular or extracurricular activities of a
primary or secondary school; the operation of a community or area
center in which presentations in music, dramatics, the arts, and
related fields are made in order to foster public interest and
education therein; the production of performances in music,
dramatics, and the arts; or the promotion of education by an
organization engaged in carrying on research in, or the
dissemination of, scientific and technological knowledge and
information primarily for the public.

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Nothing in this division shall be deemed to exempt sales to 43324
any organization for use in the operation or carrying on of a 43325
trade or business, or sales to a home for the aged for use in the 43326
operation of independent living facilities as defined in division 43327
(A) of section 5709.12 of the Revised Code. 43328

(13) Building and construction materials and services sold to 43329
construction contractors for incorporation into a structure or 43330
improvement to real property under a construction contract with 43331
this state or a political subdivision thereof, or with the United 43332
States government or any of its agencies; building and 43333
construction materials and services sold to construction 43334
contractors for incorporation into a structure or improvement to 43335
real property that are accepted for ownership by this state or any 43336
of its political subdivisions, or by the United States government 43337
or any of its agencies at the time of completion of such 43338
structures or improvements; building and construction materials 43339
sold to construction contractors for incorporation into a 43340
horticulture structure or livestock structure for a person engaged 43341
in the business of horticulture or producing livestock; building 43342
materials and services sold to a construction contractor for 43343
incorporation into a house of public worship or religious 43344
education, or a building used exclusively for charitable purposes 43345
under a construction contract with an organization whose purpose 43346
is as described in division (B)(12) of this section; building 43347
materials and services sold to a construction contractor for 43348
incorporation into a building under a construction contract with 43349
an organization exempt from taxation under section 501(c)(3) of 43350
the Internal Revenue Code of 1986 when the building is to be used 43351
exclusively for the organization's exempt purposes; building and 43352
construction materials sold for incorporation into the original 43353
construction of a sports facility under section 307.696 of the 43354
Revised Code; and building and construction materials and services 43355

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43356 sold to a construction contractor for incorporation into real
43357 property outside this state if such materials and services, when
43358 sold to a construction contractor in the state in which the real
43359 property is located for incorporation into real property in that
43360 state, would be exempt from a tax on sales levied by that state;

43361 (14) Sales of ships or vessels or rail rolling stock used or
43362 to be used principally in interstate or foreign commerce, and
43363 repairs, alterations, fuel, and lubricants for such ships or
43364 vessels or rail rolling stock;

43365 (15) Sales to persons engaged in any of the activities
43366 mentioned in division (E)(2) or (9) of section 5739.01 of the
43367 Revised Code, to persons engaged in making retail sales, or to
43368 persons who purchase for sale from a manufacturer tangible
43369 personal property that was produced by the manufacturer in
43370 accordance with specific designs provided by the purchaser, of
43371 packages, including material, labels, and parts for packages, and
43372 of machinery, equipment, and material for use primarily in
43373 packaging tangible personal property produced for sale, including
43374 any machinery, equipment, and supplies used to make labels or
43375 packages, to prepare packages or products for labeling, or to
43376 label packages or products, by or on the order of the person doing
43377 the packaging, or sold at retail. "Packages" includes bags,
43378 baskets, cartons, crates, boxes, cans, bottles, bindings,
43379 wrappings, and other similar devices and containers, and
43380 "packaging" means placing therein.

43381 (16) Sales of food to persons using food stamp ~~coupons~~
43382 benefits to purchase the food. As used in division (B)(16) of this
43383 section, "food" has the same meaning as in the "Food Stamp Act of
43384 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal
43385 regulations adopted pursuant to that act.

43386 (17) Sales to persons engaged in farming, agriculture,
43387 horticulture, or floriculture, of tangible personal property for

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use or consumption directly in the production by farming, 43388
agriculture, horticulture, or floriculture of other tangible 43389
personal property for use or consumption directly in the 43390
production of tangible personal property for sale by farming, 43391
agriculture, horticulture, or floriculture; or material and parts 43392
for incorporation into any such tangible personal property for use 43393
or consumption in production; and of tangible personal property 43394
for such use or consumption in the conditioning or holding of 43395
products produced by and for such use, consumption, or sale by 43396
persons engaged in farming, agriculture, horticulture, or 43397
floriculture, except where such property is incorporated into real 43398
property; 43399

(18) Sales of drugs dispensed by a licensed pharmacist upon 43400
the order of a licensed health professional authorized to 43401
prescribe drugs to a human being, as the term "licensed health 43402
professional authorized to prescribe drugs" is defined in section 43403
4729.01 of the Revised Code; insulin as recognized in the official 43404
United States pharmacopoeia; urine and blood testing materials 43405
when used by diabetics or persons with hypoglycemia to test for 43406
glucose or acetone; hypodermic syringes and needles when used by 43407
diabetics for insulin injections; epoetin alfa when purchased for 43408
use in the treatment of persons with end-stage renal disease; 43409
hospital beds when purchased for use by persons with medical 43410
problems for medical purposes; and oxygen and oxygen-dispensing 43411
equipment when purchased for use by persons with medical problems 43412
for medical purposes; 43413

(19) Sales of artificial limbs or portion thereof, breast 43414
prostheses, and other prosthetic devices for humans; braces or 43415
other devices for supporting weakened or nonfunctioning parts of 43416
the human body; wheelchairs; devices used to lift wheelchairs into 43417
motor vehicles and parts and accessories to such devices; crutches 43418
or other devices to aid human perambulation; and items of tangible 43419

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personal property used to supplement impaired functions of the
human body such as respiration, hearing, or elimination. No
exemption under this division shall be allowed for nonprescription
drugs, medicines, or remedies; items or devices used to supplement
vision; items or devices whose function is solely or primarily
cosmetic; or physical fitness equipment. This division does not
apply to sales to a physician or medical facility for use in the
treatment of a patient.

(20) Sales of emergency and fire protection vehicles and
equipment to nonprofit organizations for use solely in providing
fire protection and emergency services, including trauma care and
emergency medical services, for political subdivisions of the
state;

(21) Sales of tangible personal property manufactured in this
state, if sold by the manufacturer in this state to a retailer for
use in the retail business of the retailer outside of this state
and if possession is taken from the manufacturer by the purchaser
within this state for the sole purpose of immediately removing the
same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its
political subdivisions, agencies, instrumentalities, institutions,
or authorities, or by governmental entities of the state or any of
its political subdivisions, agencies, instrumentalities,
institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state
upon the presentation of an affidavit executed in this state by
the nonresident purchaser affirming that the purchaser is a
nonresident of this state, that possession of the motor vehicle is
taken in this state for the sole purpose of immediately removing
it from this state, that the motor vehicle will be permanently
titled and registered in another state, and that the motor vehicle

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will not be used in this state; 43452

(24) Sales to persons engaged in the preparation of eggs for 43453
sale of tangible personal property used or consumed directly in 43454
such preparation, including such tangible personal property used 43455
for cleaning, sanitizing, preserving, grading, sorting, and 43456
classifying by size; packages, including material and parts for 43457
packages, and machinery, equipment, and material for use in 43458
packaging eggs for sale; and handling and transportation equipment 43459
and parts therefor, except motor vehicles licensed to operate on 43460
public highways, used in intraplant or interplant transfers or 43461
shipment of eggs in the process of preparation for sale, when the 43462
plant or plants within or between which such transfers or 43463
shipments occur are operated by the same person. "Packages" 43464
includes containers, cases, baskets, flats, fillers, filler flats, 43465
cartons, closure materials, labels, and labeling materials, and 43466
"packaging" means placing therein. 43467

(25)(a) Sales of water to a consumer for residential use, 43468
except the sale of bottled water, distilled water, mineral water, 43469
carbonated water, or ice; 43470

(b) Sales of water by a nonprofit corporation engaged 43471
exclusively in the treatment, distribution, and sale of water to 43472
consumers, if such water is delivered to consumers through pipes 43473
or tubing. 43474

(26) Fees charged for inspection or reinspection of motor 43475
vehicles under section 3704.14 of the Revised Code; 43476

(27) Sales to persons licensed to conduct a food service 43477
operation pursuant to section 3717.43 of the Revised Code, of 43478
tangible personal property primarily used directly for the 43479
following: 43480

(a) To prepare food for human consumption for sale; 43481

(b) To preserve food that has been or will be prepared for 43482

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human consumption for sale by the food service operator, not
including tangible personal property used to display food for
selection by the consumer;

(c) To clean tangible personal property used to prepare or
serve food for human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services
or county humane societies;

(29) Sales of services to a corporation described in division
(A) of section 5709.72 of the Revised Code, and sales of tangible
personal property that qualifies for exemption from taxation under
section 5709.72 of the Revised Code;

(30) Sales and installation of agricultural land tile, as
defined in division (B)(5)(a) of section 5739.01 of the Revised
Code;

(31) Sales and erection or installation of portable grain
bins, as defined in division (B)(5)(b) of section 5739.01 of the
Revised Code;

(32) The sale, lease, repair, and maintenance of, parts for,
or items attached to or incorporated in, motor vehicles that are
primarily used for transporting tangible personal property by a
person engaged in highway transportation for hire;

(33) Sales to the state headquarters of any veterans'
organization in Ohio that is either incorporated and issued a
charter by the congress of the United States or is recognized by
the United States veterans administration, for use by the
headquarters;

(34) Sales to a telecommunications service vendor of tangible
personal property and services used directly and primarily in
transmitting, receiving, switching, or recording any interactive,
two-way electromagnetic communications, including voice, image,

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data, and information, through the use of any medium, including, 43513
but not limited to, poles, wires, cables, switching equipment, 43514
computers, and record storage devices and media, and component 43515
parts for the tangible personal property. The exemption provided 43516
in division (B)(34) of this section shall be in lieu of all other 43517
exceptions under division (E)(2) of section 5739.01 of the Revised 43518
Code to which a telecommunications service vendor may otherwise be 43519
entitled based upon the use of the thing purchased in providing 43520
the telecommunications service. 43521

(35) Sales of investment metal bullion and investment coins. 43522
"Investment metal bullion" means any elementary precious metal 43523
that has been put through a process of smelting or refining, 43524
including, but not limited to, gold, silver, platinum, and 43525
palladium, and which is in such state or condition that its value 43526
depends upon its content and not upon its form. "Investment metal 43527
bullion" does not include fabricated precious metal that has been 43528
processed or manufactured for one or more specific and customary 43529
industrial, professional, or artistic uses. "Investment coins" 43530
means numismatic coins or other forms of money and legal tender 43531
manufactured of gold, silver, platinum, palladium, or other metal 43532
under the laws of the United States or any foreign nation with a 43533
fair market value greater than any statutory or nominal value of 43534
such coins. 43535

(36)(a) Sales where the purpose of the consumer is to use or 43536
consume the things transferred in making retail sales and 43537
consisting of newspaper inserts, catalogues, coupons, flyers, gift 43538
certificates, or other advertising material that prices and 43539
describes tangible personal property offered for retail sale. 43540

(b) Sales to direct marketing vendors of preliminary 43541
materials such as photographs, artwork, and typesetting that will 43542
be used in printing advertising material; of printed matter that 43543
offers free merchandise or chances to win sweepstake prizes and 43544

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that is mailed to potential customers with advertising material 43545
described in division (B)(36)(a) of this section; and of equipment 43546
such as telephones, computers, facsimile machines, and similar 43547
tangible personal property primarily used to accept orders for 43548
direct marketing retail sales. 43549

(c) Sales of automatic food vending machines that preserve 43550
food with a shelf life of forty-five days or less by refrigeration 43551
and dispense it to the consumer. 43552

For purposes of division (B)(36) of this section, "direct 43553
marketing" means the method of selling where consumers order 43554
tangible personal property by United States mail, delivery 43555
service, or telecommunication and the vendor delivers or ships the 43556
tangible personal property sold to the consumer from a warehouse, 43557
catalogue distribution center, or similar fulfillment facility by 43558
means of the United States mail, delivery service, or common 43559
carrier. 43560

(37) Sales to a person engaged in the business of 43561
horticulture or producing livestock of materials to be 43562
incorporated into a horticulture structure or livestock structure; 43563

(38) The sale of a motor vehicle that is used exclusively for 43564
a vanpool ridesharing arrangement to persons participating in the 43565
vanpool ridesharing arrangement when the vendor is selling the 43566
vehicle pursuant to a contract between the vendor and the 43567
department of transportation; 43568

(39) Sales of personal computers, computer monitors, computer 43569
keyboards, modems, and other peripheral computer equipment to an 43570
individual who is licensed or certified to teach in an elementary 43571
or a secondary school in this state for use by that individual in 43572
preparation for teaching elementary or secondary school students; 43573
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(40) Sales to a professional racing team of any of the 43575

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following:	43576
(a) Motor racing vehicles;	43577
(b) Repair services for motor racing vehicles;	43578
(c) Items of property that are attached to or incorporated in	43579
motor racing vehicles, including engines, chassis, and all other	43580
components of the vehicles, and all spare, replacement, and	43581
rebuilt parts or components of the vehicles; except not including	43582
tires, consumable fluids, paint, and accessories consisting of	43583
instrumentation sensors and related items added to the vehicle to	43584
collect and transmit data by means of telemetry and other forms of	43585
communication.	43586
(41) Sales of used manufactured homes and used mobile homes,	43587
as defined in section 5739.0210 of the Revised Code, made on or	43588
after January 1, 2000;	43589
(42) Sales of tangible personal property and services to a	43590
provider of electricity used or consumed directly and primarily in	43591
generating, transmitting, or distributing electricity for use by	43592
others, including property that is or is to be incorporated into	43593
and will become a part of the consumer's production, transmission,	43594
or distribution system and that retains its classification as	43595
tangible personal property after incorporation; fuel or power used	43596
in the production, transmission, or distribution of electricity;	43597
and tangible personal property and services used in the repair and	43598
maintenance of the production, transmission, or distribution	43599
system, including only those motor vehicles as are specially	43600
designed and equipped for such use. The exemption provided in this	43601
division shall be in lieu of all other exceptions in division	43602
(E)(2) of section 5739.01 of the Revised Code to which a provider	43603
of electricity may otherwise be entitled based on the use of the	43604
tangible personal property or service purchased in generating,	43605
transmitting, or distributing electricity.	43606

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For the purpose of the proper administration of this chapter, 43607
and to prevent the evasion of the tax, it is presumed that all 43608
sales made in this state are subject to the tax until the contrary 43609
is established. 43610

As used in this section, except in division (B)(16) of this 43611
section, "food" includes cereals and cereal products, milk and 43612
milk products including ice cream, meat and meat products, fish 43613
and fish products, eggs and egg products, vegetables and vegetable 43614
products, fruits, fruit products, and pure fruit juices, 43615
condiments, sugar and sugar products, coffee and coffee 43616
substitutes, tea, and cocoa and cocoa products. It does not 43617
include: spirituous or malt liquors; soft drinks; sodas and 43618
beverages that are ordinarily dispensed at bars and soda fountains 43619
or in connection therewith, other than coffee, tea, and cocoa; 43620
root beer and root beer extracts; malt and malt extracts; mineral 43621
oils, cod liver oils, and halibut liver oil; medicines, including 43622
tonics, vitamin preparations, and other products sold primarily 43623
for their medicinal properties; and water, including mineral, 43624
bottled, and carbonated waters, and ice. 43625

(C) The levy of an excise tax on transactions by which 43626
lodging by a hotel is or is to be furnished to transient guests 43627
pursuant to this section and division (B) of section 5739.01 of 43628
the Revised Code does not prevent any of the following: 43629

(1) A municipal corporation or township from levying an 43630
excise tax for any lawful purpose not to exceed three per cent on 43631
transactions by which lodging by a hotel is or is to be furnished 43632
to transient guests in addition to the tax levied by this section. 43633
If a municipal corporation or township repeals a tax imposed under 43634
division (C)(1) of this section and a county in which the 43635
municipal corporation or township has territory has a tax imposed 43636
under division (C) of section 5739.024 of the Revised Code in 43637
effect, the municipal corporation or township may not reimpose its 43638

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tax as long as that county tax remains in effect. A municipal
corporation or township in which a tax is levied under division
(B)(2) of section 351.021 of the Revised Code may not increase the
rate of its tax levied under division (C)(1) of this section to
any rate that would cause the total taxes levied under both of
those divisions to exceed three per cent on any lodging
transaction within the municipal corporation or township.

(2) A municipal corporation or a township from levying an
additional excise tax not to exceed three per cent on such
transactions pursuant to division (B) of section 5739.024 of the
Revised Code. Such tax is in addition to any tax imposed under
division (C)(1) of this section.

(3) A county from levying an excise tax pursuant to division
(A) of section 5739.024 of the Revised Code.

(4) A county from levying an excise tax not to exceed three
per cent of such transactions pursuant to division (C) of section
5739.024 of the Revised Code. Such a tax is in addition to any tax
imposed under division (C)(3) of this section.

(5) A convention facilities authority, as defined in division
(A) of section 351.01 of the Revised Code, from levying the excise
taxes provided for in division (B) of section 351.021 of the
Revised Code.

(6) A county from levying an excise tax not to exceed one and
one-half per cent of such transactions pursuant to division (D) of
section 5739.024 of the Revised Code. Such tax is in addition to
any tax imposed under division (C)(3) or (4) of this section.

(7) A county from levying an excise tax not to exceed one and
one-half per cent of such transactions pursuant to division (E) of
section 5739.024 of the Revised Code. Such a tax is in addition to
any tax imposed under division (C)(3), (4), or (6) of this

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section.

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(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

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Sec. 5739.024. (A)(1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. Except as ~~otherwise~~ provided in divisions (A)(2) and (3) of this section, the regulations shall provide, after deducting the real and actual costs of administering the tax, for the return to each municipal corporation or township that does not levy an excise tax on such transactions, a uniform percentage of the tax collected in the municipal corporation or in the unincorporated portion of the township from each such transaction, not to exceed thirty-three and one-third per cent. The remainder of the revenue arising from the tax shall be deposited in a separate fund and shall be spent solely to make contributions to the convention and visitors' bureau operating within the county, including a pledge and contribution of any portion of such remainder pursuant to an agreement authorized by section 307.695 of the Revised Code. Except as ~~otherwise~~ provided ~~under~~ in division (A)(2) or (3) of this section, on and after May 10, 1994, a board of county

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commissioners may not levy an excise tax pursuant to this division 43702
in any municipal corporation or township located wholly or partly 43703
within the county that has in effect an ordinance or resolution 43704
levying an excise tax pursuant to division (B) of this section. 43705
The board of a county that has levied a tax under division (C) of 43706
this section may, by resolution adopted within ninety days after 43707
July 15, 1985, by a majority of the members of the board, amend 43708
the resolution levying a tax under this division to provide for a 43709
portion of that tax to be pledged and contributed in accordance 43710
with an agreement entered into under section 307.695 of the 43711
Revised Code. A tax, any revenue from which is pledged pursuant to 43712
such an agreement, shall remain in effect at the rate at which it 43713
is imposed for the duration of the period for which the revenue 43714
therefrom has been so pledged. 43715

(2) A board of county commissioners that levies an excise tax 43716
under division (A)(1) of this section on June 30, 1997, at a rate 43717
of three per cent, and that has pledged revenue from the tax to an 43718
agreement entered into under section 307.695 of the Revised Code, 43719
may amend the resolution levying that tax to provide for an 43720
increase in the rate of the tax up to five per cent on each 43721
transaction; to provide that revenue from the increase in the rate 43722
shall be spent solely to make contributions to the convention and 43723
visitors' bureau operating within the county to be used 43724
specifically for promotion, advertising, and marketing of the 43725
region in which the county is located; to provide that the rate in 43726
excess of the three per cent levied under division (A)(1) of this 43727
section shall remain in effect at the rate at which it is imposed 43728
for the duration of the period during which any agreement is in 43729
effect that was entered into under section 307.695 of the Revised 43730
Code by the board of county commissioners levying a tax under 43731
division (A)(1) of this section; and to provide that no portion of 43732
that revenue need be returned to townships or municipal 43733

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corporations as would otherwise be required under division (A)(1)
of this section.

(3) A board of county commissioners that levies a tax under
division (A)(1) of this section on March 18, 1999, at a rate of
three per cent may, by resolution adopted not later than
forty-five days after March 18, 1999, amend the resolution levying
the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more
than an additional four per cent on each transaction;

(b) That all of the revenue from the increase in rate shall
be pledged and contributed to a convention facilities authority
established by the board of county commissioners under Chapter
351. of the Revised Code on or before November 15, 1998, and used
to pay costs of constructing, maintaining, operating, and
promoting a facility in the county, including paying bonds, or
notes issued in anticipation of bonds, as provided by that
chapter;

(c) That no portion of the revenue arising from the increase
in rate need be returned to municipal corporations or townships as
otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to
diminution by initiative or referendum or by law while any bonds,
or notes in anticipation of bonds, issued by the authority under
Chapter 351. of the Revised Code to which the revenue is pledged
remain outstanding in accordance with their terms, unless
provision is made by law or by the board of county commissioners
for an adequate substitute therefor that is satisfactory to the
trustee if a trust agreement secures the bonds.

Division (A)(3) of this section does not apply to the board
of county commissioners of any county in which a convention center
or facility exists or is being constructed on November 15, 1998,

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or of any county in which a convention facilities authority levies 43765
a tax pursuant to section 351.021 of the Revised Code on that 43766
date. 43767

As used in division (A)(3) of this section, "costs" and 43768
"facility" have the same meanings as in section 351.01 of the 43769
Revised Code, and "convention center" has the same meaning as in 43770
section 307.695 of the Revised Code. 43771

(B) The legislative authority of a municipal corporation or 43772
the board of trustees of a township that is not wholly or partly 43773
located in a county that has in effect a resolution levying an 43774
excise tax pursuant to division (A)(1) of this section may by 43775
ordinance or resolution levy an excise tax not to exceed three per 43776
cent on transactions by which lodging by a hotel is or is to be 43777
furnished to transient guests. The legislative authority of the 43778
municipal corporation or township shall deposit at least fifty per 43779
cent of the revenue from the tax levied pursuant to this division 43780
into a separate fund, which shall be spent solely to make 43781
contributions to convention and visitors' bureaus operating within 43782
the county in which the municipal corporation or township is 43783
wholly or partly located, and the balance of such revenue shall be 43784
deposited in the general fund. The municipal corporation or 43785
township shall establish all regulations necessary to provide for 43786
the administration and allocation of the tax. The regulations may 43787
prescribe the time for payment of the tax, and may provide for the 43788
imposition of a penalty or interest, or both, for late payments, 43789
provided that the penalty does not exceed ten per cent of the 43790
amount of tax due, and the rate at which interest accrues does not 43791
exceed the rate per annum prescribed pursuant to section 5703.47 43792
of the Revised Code. The levy of a tax under this division is in 43793
addition to any tax imposed on the same transaction by a municipal 43794
corporation or a township as authorized by division (C)(1) of 43795
section 5739.02 of the Revised Code. 43796

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(C) For the purpose of making the payments authorized by 43797
section 307.695 of the Revised Code to construct and equip a 43798
convention center in the county and to cover the costs of 43799
administering the tax, a board of county commissioners of a county 43800
where a tax imposed under division (A)(1) of this section is in 43801
effect may, by resolution adopted within ninety days after July 43802
15, 1985, by a majority of the members of the board, levy an 43803
additional excise tax not to exceed three per cent on transactions 43804
by which lodging by a hotel is or is to be furnished to transient 43805
guests. The tax authorized by this division shall be in addition 43806
to any tax that is levied pursuant to division (A) of this 43807
section, but it shall not apply to transactions subject to a tax 43808
levied by a municipal corporation or township pursuant to the 43809
authorization granted by division (C)(1) of section 5739.02 of the 43810
Revised Code. The board shall establish all regulations necessary 43811
to provide for the administration and allocation of the tax. The 43812
regulations may prescribe the time for payment of the tax, and may 43813
provide for the imposition of a penalty or interest, or both, for 43814
late payments, provided that the penalty does not exceed ten per 43815
cent of the amount of tax due, and the rate at which interest 43816
accrues does not exceed the rate per annum prescribed pursuant to 43817
section 5703.47 of the Revised Code. All revenues arising from the 43818
tax shall be expended in accordance with section 307.695 of the 43819
Revised Code. A tax imposed under this section shall remain in 43820
effect at the rate at which it is imposed for the duration of the 43821
period for which the revenue therefrom has been pledged pursuant 43822
to such section. 43823

(D) For the purpose of providing contributions under division 43824
(B)(1) of section 307.671 of the Revised Code to enable the 43825
acquisition, construction, and equipping of a port authority 43826
educational and cultural facility in the county and, to the extent 43827
provided for in the cooperative agreement authorized by that 43828

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section, for the purpose of paying debt service charges on bonds,
or notes in anticipation thereof, described in division (B)(1)(b)
of that section, a board of county commissioners, by resolution
adopted within ninety days after December 22, 1992, by a majority
of the members of the board, may levy an additional excise tax not
to exceed one and one-half per cent on transactions by which
lodging by a hotel is or is to be furnished to transient guests.
The excise tax authorized by this division shall be in addition to
any tax that is levied pursuant to divisions (A), (B), and (C) of
this section, to any excise tax levied pursuant to division (C) of
section 5739.02 of the Revised Code, and to any excise tax levied
pursuant to section 351.021 of the Revised Code. The board of
county commissioners shall establish all regulations necessary to
provide for the administration and allocation of the tax that are
not inconsistent with this section or section 307.671 of the
Revised Code. The regulations may prescribe the time for payment
of the tax, and may provide for the imposition of a penalty or
interest, or both, for late payments, provided that the penalty
does not exceed ten per cent of the amount of tax due, and the
rate at which interest accrues does not exceed the rate per annum
prescribed pursuant to section 5703.47 of the Revised Code. All
revenues arising from the tax shall be expended in accordance with
section 307.671 of the Revised Code and division (D) of this
section. The levy of a tax imposed under this section may not
commence prior to the first day of the month next following the
execution of the cooperative agreement authorized by section
307.671 of the Revised Code by all parties to that agreement. Such
tax shall remain in effect at the rate at which it is imposed for
the period of time described in division (C) of section 307.671 of
the Revised Code for which the revenue from the tax has been
pledged by the county to the corporation pursuant to such section,
but, to any extent provided for in the cooperative agreement, for
no lesser period than the period of time required for payment of

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the debt service charges on bonds, or notes in anticipation 43862
thereof, described in division (B)(1)(b) of that section. 43863

(E) For the purpose of paying the costs of acquiring, 43864
constructing, equipping, and improving a municipal educational and 43865
cultural facility, including debt service charges on bonds 43866
provided for in division (B) of section 307.672 of the Revised 43867
Code, and for such additional purposes as are determined by the 43868
county in the resolution levying the tax or amendments thereto, 43869
including subsequent amendments providing for paying costs of 43870
acquiring, constructing, renovating, rehabilitating, equipping, 43871
and improving a port authority educational and cultural performing 43872
arts facility, as defined in section 307.674 of the Revised Code, 43873
including debt service charges on bonds provided for in division 43874
(B) of section 307.674 of the Revised Code, the legislative 43875
authority of a county, by resolution adopted within ninety days 43876
after June 30, 1993, by a majority of the members of the 43877
legislative authority, may levy an additional excise tax not to 43878
exceed one and one-half per cent on transactions by which lodging 43879
by a hotel is or is to be furnished to transient guests. The 43880
excise tax authorized by this division shall be in addition to any 43881
tax that is levied pursuant to divisions (A), (B), (C), and (D) of 43882
this section, to any excise tax levied pursuant to division (C) of 43883
section 5739.02 of the Revised Code, and to any excise tax levied 43884
pursuant to section 351.021 of the Revised Code. The legislative 43885
authority of the county shall establish all regulations necessary 43886
to provide for the administration and allocation of the tax. The 43887
regulations may prescribe the time for payment of the tax, and may 43888
provide for the imposition of a penalty or interest, or both, for 43889
late payments, provided that the penalty does not exceed ten per 43890
cent of the amount of tax due, and the rate at which interest 43891
accrues does not exceed the rate per annum prescribed pursuant to 43892
section 5703.47 of the Revised Code. All revenues arising from the 43893
tax shall be expended in accordance with section 307.672 of the 43894

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Revised Code and division (E) of this section. The levy of a tax 43895
imposed under this division shall not commence prior to the first 43896
day of the month next following the execution of the cooperative 43897
agreement authorized by section 307.672 of the Revised Code by all 43898
parties to that agreement. Such tax shall remain in effect at the 43899
rate at which it is imposed for the period of time determined by 43900
the legislative authority of the county, but not to exceed fifteen 43901
years. 43902

(F) The legislative authority of a county that has levied a 43903
tax under division (E) of this section may, by resolution adopted 43904
within one hundred eighty days after ~~the effective date of this~~ 43905
~~amendment~~ January 4, 2001, by a majority of the members of the 43906
legislative authority, amend the resolution levying a tax under 43907
division (E) of this section to provide for the use of the 43908
proceeds of that tax, to the extent that it is no longer needed 43909
for its original purpose as determined by the parties to a 43910
cooperative agreement amendment pursuant to division (D) of 43911
section 307.672 of the Revised Code, to pay costs of acquiring, 43912
constructing, renovating, rehabilitating, equipping, and improving 43913
a port authority educational and cultural performing arts 43914
facility, including debt service charges on bonds provided for in 43915
division (B) of section 307.674 of the Revised Code, and to pay 43916
all obligations under any guaranty agreements, reimbursement 43917
agreements, or other credit enhancement agreements described in 43918
division (C) of section 307.674 of the Revised Code. The 43919
resolution may also provide for the extension of the tax at the 43920
same rate for the longer of the period of time determined by the 43921
legislative authority of the county, but not to exceed an 43922
additional twenty-five years, or the period of time required to 43923
pay all debt service charges on bonds provided for in division (B) 43924
of section 307.672 of the Revised Code and on port authority 43925
revenue bonds provided for in division (B) of section 307.674 of 43926
the Revised Code. All revenues arising from the amendment and 43927

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extension of the tax shall be expended in accordance with section 43928
 307.674 of the Revised Code and divisions (E) and (F) of this 43929
 section. 43930

(G) A board of county commissioners, board of township 43931
trustees, or the legislative authority of a municipal corporation 43932
may adopt a resolution or ordinance at any time specifying that 43933
"hotel," as otherwise defined in section 5739.01 of the Revised 43934
Code, includes establishments in which fewer than five rooms are 43935
used for the accommodation of guests. The resolution or ordinance 43936
may apply to a tax imposed pursuant to this section prior to the 43937
adoption of the resolution or ordinance if the resolution or 43938
ordinance so states, but the tax shall not apply to transactions 43939
by which lodging by such an establishment is provided to transient 43940
guests prior to the adoption of the resolution or ordinance. 43941

Sec. 5739.032. (A) If the total amount of tax required to be 43942
 paid by a permit holder under section 5739.031 of the Revised Code 43943
 for any calendar year indicated in the following schedule equals 43944
 or exceeds the amounts prescribed for that year in the schedule, 43945
 the permit holder shall remit each monthly tax payment in the 43946
 second ensuing and each succeeding year by electronic funds 43947
 transfer as prescribed by division (B) of this section. 43948

Year	1992	1993 through 1999	2000 and thereafter	43949
Tax payment	\$1,200,000	\$600,000	\$60,000	43950

If a permit holder's tax payment for each of two consecutive 43951
 years beginning with 2000 is less than sixty thousand dollars, the 43952
 permit holder is relieved of the requirement to remit taxes by 43953
 electronic funds transfer for the year that next follows the 43954
 second of the consecutive years in which the tax payment is less 43955
 than sixty thousand dollars, and is relieved of that requirement 43956
 for each succeeding year unless the tax payment in a subsequent 43957
 year equals or exceeds sixty thousand dollars. 43958

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The tax commissioner shall notify each permit holder required to remit taxes by electronic funds transfer of the permit holder's obligation to do so, shall maintain an updated list of those permit holders, and shall timely certify the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a permit holder subject to this section to remit taxes by electronic funds transfer does not relieve the permit holder of its obligation to remit taxes by electronic funds transfer.

(B) Permit holders required by division (A) of this section to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by rules adopted by the treasurer under section 113.061 of the Revised Code and on or before the dates specified under section 5739.031 of the Revised Code. The payment of taxes by electronic funds transfer does not affect a permit holder's obligation to file the monthly return as required under section 5739.031 of the Revised Code.

A permit holder required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer to be excused from that requirement. The treasurer of state may excuse the permit holder from remittance by electronic funds transfer for good cause shown for the period of time requested by the permit holder or for a portion of that period. The treasurer shall notify the tax commissioner and the permit holder of the treasurer's decision as soon as is practicable.

(C) If a permit holder required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by this section and the rules adopted by the treasurer of state, and the ~~treasurer~~ tax commissioner determines that such failure was

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not due to reasonable cause or was due to willful neglect, the 43991
~~treasurer shall notify the tax commissioner of the failure to~~ 43992
~~remit by electronic funds transfer and shall provide the~~ 43993
~~commissioner with any information used in making that~~ 43994
~~determination. The tax~~ commissioner may collect an additional 43995
charge by assessment in the manner prescribed by section 5739.13 43996
of the Revised Code. The additional charge shall equal five per 43997
cent of the amount of the taxes required to be paid by electronic 43998
funds transfer, but shall not exceed five thousand dollars. Any 43999
additional charge assessed under this section is in addition to 44000
any other penalty or charge imposed under this chapter, and shall 44001
be considered as revenue arising from taxes imposed under this 44002
chapter. The tax commissioner may remit all or a portion of such a 44003
charge and may adopt rules governing such remission. 44004

No additional charge shall be assessed under this division 44005
against a permit holder that has been notified of its obligation 44006
to remit taxes under this section and that remits its first two 44007
tax payments after such notification by some means other than 44008
electronic funds transfer. The additional charge may be assessed 44009
upon the remittance of any subsequent tax payment that the permit 44010
holder remits by some means other than electronic funds transfer. 44011

Sec. 5739.07. (A) The tax commissioner shall refund to 44012
vendors the amount of taxes paid illegally or erroneously or paid 44013
on any illegal or erroneous assessment if the vendor has not been 44014
reimbursed from the consumer. When the illegal or erroneous 44015
payment or assessment was not paid to a vendor but was paid by the 44016
consumer directly to the treasurer of state ~~or~~, an agent of the 44017
treasurer of state, the tax commissioner, or an agent of the tax 44018
commissioner, the tax commissioner shall refund to the consumer. 44019
When a refund is granted for payment of an illegal or erroneous 44020
assessment issued by the department, the refund shall include 44021
interest as provided by section 5739.132 of the Revised Code. 44022

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(B) The tax commissioner may make a refund to the consumer of taxes paid illegally or erroneously if the tax has not been refunded to the vendor and any of the following circumstances apply:

(1) The consumer is unable to receive a refund from the vendor because the vendor has ceased business;

(2) The vendor is unable to issue a refund because of bankruptcy or similar financial condition;

(3) The consumer receives a refund of the full price paid to the vendor from a manufacturer or other person, other than the vendor, as a settlement for a complaint by the consumer about the property or service purchased.

(C) Applications for refund shall be filed with the tax commissioner, on the form prescribed by the tax commissioner, within four years from the date of the illegal or erroneous payment of the tax, unless the vendor or consumer waives the time limitation under division (A)(3) of section 5739.16 of the Revised Code. If the time limitation is waived, the four-year refund limitation shall be extended for the same period of time as the waiver. On the filing of an application for refund, the commissioner shall determine the amount of refund due and certify that amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code.

Sec. 5739.102. A person who is liable for a tax levied under section 5739.101 of the Revised Code shall file a return with the ~~treasurer of state~~ tax commissioner showing ~~his~~ the person's taxable gross receipts from sales described under division (B)(1) or (2) of that section. The tax commissioner shall prescribe the form of the return, and the six- or twelve-month reporting period. The person shall file the return on or before the last day of the

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month following the end of the reporting period prescribed by the 44054
commissioner, and shall include with the return payment of the tax 44055
for the period. The remittance shall be made payable to the 44056
treasurer of state. 44057

Upon receipt of a return, the ~~treasurer of state tax~~ 44058
~~commissioner~~ shall credit any money included with it to the resort 44059
area excise tax fund, which is hereby created, ~~and shall forward~~ 44060
~~the return to the tax commissioner. The treasurer of state shall~~ 44061
~~stamp or otherwise mark on the return the date it was received,~~ 44062
~~and shall indicate on the return the amount of payment received~~ 44063
~~with it.~~ Within forty-five days after the end of each month, the 44064
commissioner shall provide for the distribution of all money paid 44065
during that month into the resort area excise tax fund to the 44066
appropriate municipal corporations and townships, after first 44067
subtracting and crediting to the general revenue fund one per cent 44068
to cover the costs of administering the excise tax. 44069

If a person liable for the tax fails to file a return or pay 44070
the tax as required under this section and the rules of the tax 44071
commissioner, ~~he~~ the person shall pay an additional charge of the 44072
greater of fifty dollars or ten per cent of the tax due for the 44073
return period. The additional charge shall be considered revenue 44074
arising from the tax levied under section 5739.101 of the Revised 44075
Code, and may be collected by assessment in the manner provided in 44076
section 5739.13 of the Revised Code. The tax commissioner may 44077
remit all or a portion of the charge. 44078

Sec. 5739.12. Each person who has or is required to have a 44079
vendor's license, on or before the twenty-third day of each month, 44080
shall make and file a return for the preceding month, on forms 44081
prescribed by the tax commissioner, and shall pay the tax shown on 44082
the return to be due. The return shall show the amount of tax due 44083
from the vendor to the state for the period covered by the return 44084
and such other information as the commissioner deems necessary for 44085

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the proper administration of this chapter. The commissioner may 44086
extend the time for making and filing returns and paying the tax, 44087
and may require that the return for the last month of any annual 44088
or semiannual period, as determined by the commissioner, be a 44089
reconciliation return detailing the vendor's sales activity for 44090
the preceding annual or semiannual period. The reconciliation 44091
return shall be filed by the last day of the month following the 44092
last month of the annual or semiannual period. The commissioner 44093
may remit all or any part of amounts or penalties which may become 44094
due under this chapter and may adopt rules relating thereto. Such 44095
return shall be filed by mailing ~~the same~~ it to the ~~treasurer of~~ 44096
~~state tax commissioner~~, together with payment of the amount of tax 44097
shown to be due thereon after deduction of any discount provided 44098
for under this section. Remittance shall be made payable to the 44099
treasurer of state. The return shall be considered filed when 44100
received by the ~~treasurer of state tax commissioner~~, and the 44101
payment shall be considered made when received by the ~~treasurer of~~ 44102
~~state tax commissioner~~ or when credited to an account designated 44103
by the treasurer of state or the tax commissioner. If the return 44104
is filed and the amount of tax shown thereon to be due is paid on 44105
or before the date such return is required to be filed, the vendor 44106
shall be entitled to a discount of three-fourths of one per cent 44107
of the amount shown to be due on the return. Amounts paid to the 44108
clerk of courts pursuant to section 4505.06 of the Revised Code 44109
shall be subject to the three-fourths of one per cent discount. 44110
The discount shall be in consideration for prompt payment to the 44111
clerk of courts and for other services performed by the vendor in 44112
the collection of the tax. 44113

Upon application to the commissioner, a vendor who is 44114
required to file monthly returns may be relieved of the 44115
requirement to report and pay the actual tax due, provided that 44116
the vendor agrees to remit to the ~~treasurer of state tax~~ 44117
commissioner payment of not less than an amount determined by the 44118

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commissioner to be the average monthly tax liability of the 44119
vendor, based upon a review of the returns or other information 44120
pertaining to such vendor for a period of not less than six months 44121
nor more than two years immediately preceding the filing of the 44122
application. Vendors who agree to the above conditions shall make 44123
and file an annual or semiannual reconciliation return, as 44124
prescribed by the commissioner. The reconciliation return shall be 44125
filed by mailing or delivering ~~the same~~ it to the ~~treasurer of~~ 44126
~~state tax commissioner~~, together with payment of the amount of tax 44127
shown to be due thereon after deduction of any discount provided 44128
in this section. Remittance shall be made payable to the treasurer 44129
of state. Failure of a vendor to comply with any of the above 44130
conditions may result in immediate reinstatement of the 44131
requirement of reporting and paying the actual tax liability on 44132
each monthly return, and the commissioner may at the 44133
commissioner's discretion deny the vendor the right to report and 44134
pay based upon the average monthly liability for a period not to 44135
exceed two years. The amount ~~determined~~ ascertained by the 44136
commissioner to be the average monthly tax liability of a vendor 44137
may be adjusted, based upon a review of the returns or other 44138
information pertaining to the vendor for a period of not less than 44139
six months nor more than two years preceding such adjustment. 44140

The commissioner may authorize vendors whose tax liability is 44141
not such as to merit monthly returns, as ~~determined~~ ascertained by 44142
the commissioner upon the basis of administrative costs to the 44143
state, to make and file returns at less frequent intervals. When 44144
returns are filed at less frequent intervals in accordance with 44145
such ~~a determination~~ authorization, the vendor shall be allowed 44146
the discount of three-fourths of one per cent in consideration for 44147
prompt payment with the return, provided the return is filed 44148
together with payment of the amount of tax shown to be due 44149
thereon, at the time specified by the commissioner. 44150

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~~The treasurer of state shall stamp or otherwise mark on all~~ 44151
~~returns the date received by the treasurer of state and shall also~~ 44152
~~show thereon by stamp or otherwise the amount of payment received~~ 44153
~~for the period for which the return is filed. Thereafter, the~~ 44154
~~treasurer of state shall immediately transmit all returns filed~~ 44155
~~under this section to the commissioner.~~ Any vendor who fails to 44156
file a return or pay the full amount of the tax shown on the 44157
return to be due under this section and the rules of the 44158
commissioner may, for each such return the vendor fails to file or 44159
each such tax the vendor fails to pay in full as shown on the 44160
return within the period prescribed by this section and the rules 44161
of the commissioner, be required to forfeit and pay into the state 44162
treasury an additional charge not exceeding fifty dollars or ten 44163
per cent of the tax required to be paid for the reporting period, 44164
whichever is greater, as revenue arising from the tax imposed by 44165
this chapter, and such sum may be collected by assessment in the 44166
manner provided in section 5739.13 of the Revised Code. The 44167
commissioner may remit all or a portion of the additional charge 44168
and may adopt rules relating to the imposition and remission of 44169
the additional charge. 44170

If the amount required to be collected by a vendor from 44171
consumers is in excess of five per cent of the vendor's receipts 44172
from sales which are taxable under section 5739.02 of the Revised 44173
Code, or in the case of sales subject to a tax levied pursuant to 44174
section 5739.021, 5739.023, or 5739.026 of the Revised Code, in 44175
excess of the percentage equal to the aggregate rate of such taxes 44176
and the tax levied by section 5739.02 of the Revised Code, such 44177
excess shall be remitted along with the remittance of the amount 44178
of tax due under section 5739.10 of the Revised Code. 44179

The commissioner, if the commissioner deems it necessary in 44180
order to insure the payment of the tax imposed by this chapter, 44181
may require returns and payments to be made for other than monthly 44182

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periods. The returns shall be signed by the vendor or the vendor's
authorized agent.

Any vendor required to file a return and pay the tax under
this section whose total payment in any year indicated in division
(A) of section 5739.122 of the Revised Code equals or exceeds the
amount shown in that division shall make each payment required by
this section in the second ensuing and each succeeding year by
electronic funds transfer as prescribed by section 5739.122 of the
Revised Code, except as otherwise prescribed by that section.

Sec. 5739.121. As used in this section, "bad debt" means any
debt that has become worthless or uncollectible in the time period
between a vendor's preceding return and the present return, have
been uncollected for at least six months, and that may be claimed
as a deduction pursuant to the "Internal Revenue Code of 1954,"
68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted
pursuant thereto, or that could be claimed as such a deduction if
the vendor kept accounts on an accrual basis. "Bad debt" does not
include any interest or sales tax on the purchase price,
uncollectible amounts on property that remains in the possession
of the vendor until the full purchase price is paid, expenses
incurred in attempting to collect any account receivable or for
any portion of the debt recovered, any accounts receivable that
have been sold to a third party for collection, and repossessed
property.

In computing taxable receipts for purposes of this chapter, a
vendor may deduct the amount of bad debts, as defined in this
section. The amount deducted must be charged off as uncollectible
on the books of the vendor. A deduction may be claimed only with
respect to bad debts on which the taxes pursuant to sections
5739.10 and 5739.12 of the Revised Code were paid in a preceding
tax period. If the vendor's business consists of taxable and

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nontaxable transactions, the deduction shall equal the full amount
of the debt if the debt is documented as a taxable transaction in
the vendor's records. If no such documentation is available, the
maximum deduction on any bad debt shall equal the amount of the
bad debt multiplied by the quotient obtained by dividing the sales
taxed pursuant to this chapter during the preceding calendar year
by all sales during the preceding calendar year, whether taxed or
not. If a consumer or other person pays all or part of a bad debt
with respect to which a vendor claimed a deduction under this
section, the vendor shall be liable for the amount of taxes
deducted in connection with that portion of the debt for which
payment is received and shall remit such taxes in ~~his~~ the vendor's
next payment to the ~~treasurer of state~~ tax commissioner.

Any claim for a bad debt deduction under this section shall
be supported by such evidence as the tax commissioner by rule
requires. The commissioner shall review any change in the rate of
taxation applicable to any taxable sales by a vendor claiming a
deduction pursuant to this section and adopt rules for altering
the deduction in the event of such a change in order to ensure
that the deduction on any bad debt does not result in the vendor
claiming the deduction recovering any more or less than the taxes
imposed on the sale that constitutes the bad debt.

Sec. 5739.13. (A) If any vendor collects the tax imposed by
or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of
the Revised Code, and fails to remit the tax to the state as
prescribed, or on the sale of a motor vehicle, watercraft, or
outboard motor required to be titled, fails to remit payment to a
clerk of a court of common pleas as provided in section 1548.06 or
4505.06 of the Revised Code, the vendor shall be personally liable
for any tax collected and not remitted. The tax commissioner may
make an assessment against such vendor based upon any information
in the commissioner's possession.

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If any vendor fails to collect the tax or any consumer fails to pay the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code, on any transaction subject to the tax, the vendor or consumer shall be personally liable for the amount of the tax applicable to the transaction. The commissioner may make an assessment against either the vendor or consumer, as the facts may require, based upon any information in the commissioner's possession.

An assessment against a vendor when the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code has not been collected or paid, shall not discharge the purchaser's or consumer's liability to reimburse the vendor for the tax applicable to such transaction.

An assessment issued against either, pursuant to this section, shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any person for the tax due on a particular transaction if the tax on that transaction actually has been paid by another.

The commissioner may make an assessment against any vendor who fails to file a return or remit the proper amount of tax required by this chapter, or against any consumer who fails to pay the proper amount of tax required by this chapter. When information in the possession of the commissioner indicates that the amount required to be collected or paid under this chapter is greater than the amount remitted by the vendor or paid by the consumer, the commissioner may audit a sample of the vendor's sales or the consumer's purchases for a representative period, to ascertain the per cent of exempt or taxable transactions or the effective tax rate and may issue an assessment based on the audit. The commissioner shall make a good faith effort to reach agreement with the vendor or consumer in selecting a representative sample

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period.

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The tax commissioner may make an assessment, based on any information in his possession, against any person who fails to file a return or remit the proper amount of tax required by section 5739.102 of the Revised Code.

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The tax commissioner may issue an assessment on any transaction for which any tax imposed under this chapter or Chapter 5741. of the Revised Code was due and unpaid on the date the vendor or consumer was informed by an agent of the tax commissioner of an investigation or audit. If the vendor or consumer remits any payment of the tax for the period covered by the assessment after the vendor or consumer was informed of the investigation or audit, the payment shall be credited against the amount of the assessment.

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The commissioner shall give the party assessed written notice of the assessment as provided in section 5703.37 of the Revised Code.

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(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, the assessment shall become final and the amount of the assessment shall be due ~~and payable~~ from the party assessed and payable to the treasurer of state and remitted to the tax commissioner. 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.

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Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the petition and

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notify the petitioner of the time and place of the hearing by 44309
personal service or certified mail, but the commissioner may 44310
continue the hearing from time to time if necessary. 44311

The commissioner may make such correction to the assessment 44312
as the commissioner finds proper. The commissioner shall serve a 44313
copy of the commissioner's final determination on the petitioner 44314
by personal service or certified mail, and the commissioner's 44315
decision in the matter shall be final, subject to appeal as 44316
provided in section 5717.02 of the Revised Code. Only objections 44317
decided on the merits by the board of tax appeals or a court shall 44318
be given collateral estoppel or res judicata effect in considering 44319
an application for refund of amounts paid pursuant to the 44320
assessment. 44321

(C) After an assessment becomes final, if any portion of the 44322
assessment remains unpaid, including accrued interest, a certified 44323
copy of the commissioner's entry making the assessment final may 44324
be filed in the office of the clerk of the court of common pleas 44325
in the county in which the place of business of the party assessed 44326
is located or the county in which the party assessed resides. If 44327
the party assessed maintains no place of business in this state 44328
and is not a resident of this state, the certified copy of the 44329
entry may be filed in the office of the clerk of the court of 44330
common pleas of Franklin county. 44331

The clerk, immediately upon the filing of such entry, shall 44332
enter a judgment for the state against the party assessed in the 44333
amount shown on the entry. The judgment may be filed by the clerk 44334
in a loose-leaf book entitled "special judgments for state, 44335
county, and transit authority retail sales tax" or, if 44336
appropriate, "special judgments for resort area excise tax," and 44337
shall have the same effect as other judgments. Execution shall 44338
issue upon the judgment upon the request of the tax commissioner, 44339
and all laws applicable to sales on execution shall apply to sales 44340

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made under the judgment except as otherwise provided in this
chapter.

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

(D) All money collected by the commissioner under this
section shall be paid to the treasurer of state, and when paid
shall be considered as revenue arising from the taxes imposed by
or pursuant to sections 5739.01 to 5739.31 of the Revised Code.

Sec. 5739.18. On the first business day of each week, each
county auditor shall make in triplicate a list showing the names
of all vendors licensed in ~~his~~ the auditor's county during the
preceding week pursuant to sections 5739.01 to 5739.31, ~~inclusive,~~
of the Revised Code, and such other information as to each,
available from the records in ~~his~~ the auditor's office, as the tax
commissioner prescribes, and shall immediately certify one of such
lists to the commissioner, one to the treasurer of state, and one
to the county treasurer. The commissioner shall keep an
alphabetical index of such licensees so certified to ~~him~~ the
commissioner but ~~he~~ may delete therefrom the names of those
persons whose licenses have been cancelled.

Sec. 5741.10. The tax commissioner shall refund to sellers
the amount of tax levied pursuant to section 5741.02, 5741.021,
5741.022, or 5741.023 of the Revised Code paid on any illegal or
erroneous payment or assessment, where the seller has reimbursed
the consumer. When such payment or assessment was not paid to a

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seller, but was paid by the consumer directly to the treasurer of 44371
state, ~~or the treasurer of state's agent, by the consumer~~ 44372
commissioner, or the commissioner's agent, the treasurer of state 44373
shall make refund to the consumer. When such a refund is granted, 44374
it shall include interest thereon as provided by section 5739.132 44375
of the Revised Code. Applications for refund shall be filed with 44376
the tax commissioner, on the form prescribed by the commissioner, 44377
within four years from the date of the illegal or erroneous 44378
payment of the tax except where the vendor or consumer waives the 44379
time limitation under division (C) of section 5741.16 of the 44380
Revised Code, in which case the four-year refund limitation shall 44381
be extended for the same period of time as the waiver. On filing 44382
such application, the commissioner shall determine the amount of 44383
refund due and shall certify such amount to the director of budget 44384
and management and treasurer of state for payment from the tax 44385
refund fund created by section 5703.052 of the Revised Code. 44386

Sec. 5741.12. (A) Each seller required by section 5741.17 of 44387
the Revised Code to register with the tax commissioner, and any 44388
seller authorized by the commissioner to collect the tax imposed 44389
by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 44390
of the Revised Code is subject to the same requirements and 44391
entitled to the same deductions and discount for prompt payments 44392
as are vendors under section 5739.12 of the Revised Code. The 44393
powers and duties of the commissioner and the treasurer of state 44394
with respect to returns and tax remittances under this section 44395
shall be identical with those prescribed in section 5739.12 of the 44396
Revised Code. 44397

(B) Every person storing, using, or consuming tangible 44398
personal property or receiving the benefit of a service, the 44399
storage, use, consumption, or receipt of which is subject to the 44400
tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, 44401
or 5741.023 of the Revised Code, when such tax was not paid to a 44402

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seller, shall, on or before the twenty-third day of each month, 44403
file with the ~~treasurer of state~~ tax commissioner a return for the 44404
preceding month in such form as is prescribed by the commissioner, 44405
showing such information as the commissioner deems necessary, and 44406
shall pay the tax shown on the return to be due. Remittance shall 44407
be made payable to the treasurer of state. The commissioner may 44408
require consumers to file returns and pay the tax at other than 44409
monthly intervals, if ~~he~~ the commissioner determines that such 44410
filing is necessary for the efficient administration of the tax. 44411
If the commissioner determines that a consumer's tax liability is 44412
not such as to merit monthly filing, the commissioner may 44413
authorize the consumer to file returns and pay tax at less 44414
frequent intervals. ~~The treasurer of state shall show on the~~ 44415
~~return the date it was filed and the amount of the payment~~ 44416
~~remitted to the treasurer. Thereafter, the treasurer immediately~~ 44417
~~shall transmit all returns filed under this section to the tax~~ 44418
~~commissioner.~~ 44419

Any consumer required to file a return and pay the tax under 44420
this section whose payment for any year indicated in section 44421
5741.121 of the Revised Code equals or exceeds the amount shown in 44422
that section shall make each payment required by this section in 44423
the second ensuing and each succeeding year by means of electronic 44424
funds transfer as prescribed by section 5741.121 of the Revised 44425
Code, except as otherwise prescribed by that section. 44426

(C) Every person storing, using, or consuming a motor 44427
vehicle, watercraft, or outboard motor, the ownership of which 44428
must be evidenced by certificate of title, shall file the return 44429
required by this section and pay the tax due at or prior to the 44430
time of filing an application for certificate of title. 44431

Sec. 5743.62. (A) To provide revenue for the general revenue 44432
fund of the state, an excise tax is hereby levied on the seller of 44433

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tobacco products in this state at the rate of seventeen per cent 44434
of the wholesale price of the tobacco product whenever the tobacco 44435
product is delivered to a consumer in this state for the storage, 44436
use, or other consumption of such tobacco products. The tax 44437
imposed by this section applies only to sellers having nexus in 44438
this state, as defined in section 5741.01 of the Revised Code. 44439

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(B) A seller of tobacco products who has nexus in this state 44441
as defined in section 5741.01 of the Revised Code shall register 44442
with the tax commissioner and supply any information concerning 44443
~~his~~ the seller's contacts with this state as may be required by 44444
the tax commissioner. A seller who does not have nexus in this 44445
state may voluntarily register with the tax commissioner. A seller 44446
who voluntarily registers with the tax commissioner is entitled to 44447
the same benefits and is subject to the same duties and 44448
requirements as a seller required to be registered with the tax 44449
commissioner under this division. 44450

(C) Each seller of tobacco products subject to the tax levied 44451
by this section, on or before the last day of each month, shall 44452
file with the ~~treasurer of state~~ tax commissioner a return for the 44453
preceding month showing any information the tax commissioner finds 44454
necessary for the proper administration of sections 5743.51 to 44455
5743.66 of the Revised Code, together with remittance of the tax 44456
due. ~~The, payable to the~~ treasurer of state ~~shall stamp or~~ 44457
~~otherwise mark on the return the date it was received and the~~ 44458
~~amount of payment received with the return. Thereafter, the~~ 44459
~~treasurer of state shall immediately transmit all returns filed~~ 44460
~~under this section to the commissioner.~~ The return and payment of 44461
the tax required by this section shall be filed in such a manner 44462
that it is received by the ~~treasurer of state~~ tax commissioner on 44463
or before the last day of the month following the reporting 44464
period. If the return is filed and the amount of the tax shown on 44465

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the return to be due is paid on or before the date the return is 44466
required to be filed, the seller is entitled to a discount equal 44467
to two and five-tenths per cent of the amount shown on the return 44468
to be due. 44469

(D) ~~The tax commissioner shall immediately forward to the~~ 44470
~~treasurer of state all~~ money received into the state treasury from 44471
the tax levied by this section, ~~and the treasurer shall be~~ 44472
~~credited~~ credit the amount to the general revenue fund. 44473

(E) Each seller of tobacco products subject to the tax levied 44474
by this section shall mark on the invoices of tobacco products 44475
sold that the tax levied by that section has been paid and shall 44476
indicate the seller's account number as assigned by the tax 44477
commissioner. 44478

Sec. 5743.63. (A) To provide revenue for the general revenue 44479
fund of the state, an excise tax is hereby levied on the storage, 44480
use, or other consumption of tobacco products at the rate of 44481
seventeen per cent of the wholesale price of the tobacco product, 44482
provided the tax has not been paid by the seller as provided in 44483
section 5743.62 of the Revised Code, or by the distributor as 44484
provided in section 5743.51 of the Revised Code. 44485

(B) Each person subject to the tax levied by this section, on 44486
or before the last day of each month, shall file with the 44487
~~treasurer of state~~ tax commissioner a return for the preceding 44488
month showing any information the tax commissioner finds necessary 44489
for the proper administration of sections 5743.51 to 5743.66 of 44490
the Revised Code, together with remittance of the tax due. ~~The,~~ 44491
~~payable to the~~ treasurer of state ~~shall stamp or otherwise mark on~~ 44492
~~the return the date it was received and the amount of payment~~ 44493
~~received with the return. Thereafter, the treasurer of state shall~~ 44494
~~immediately transmit all returns filed under this section to the~~ 44495
commissioner. The return and payment of the tax required by this 44496

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section shall be filed in such a manner that it is received by the 44497
~~treasurer of state tax commissioner~~ on or before the last day of 44498
the month following the reporting period. 44499

(C) The tax commissioner shall immediately forward to the 44500
treasurer of state all money received ~~into the state treasury~~ from 44501
the tax levied by this section, and the treasurer shall be 44502
~~credited~~ credit the amount to the general revenue fund. 44503

Sec. 5745.03. (A) For each taxable year, each taxpayer shall 44504
file an annual report with the ~~treasurer of state tax commissioner~~ 44505
not later than the fifteenth day of the fourth month after the end 44506
of the taxpayer's taxable year, and shall remit with that report 44507
the amount of tax due as shown on the report less the amount paid 44508
for the year under section 5745.04 of the Revised Code. The 44509
remittance shall be made in the form prescribed by the ~~treasurer~~ 44510
~~of state, including electronic funds transfer if tax commissioner.~~ 44511
If the amount payable with the report exceeds one thousand 44512
dollars, the taxpayer shall remit the amount by electronic funds 44513
transfer as prescribed by the treasurer of state. The tax 44514
commissioner shall immediately forward to the treasurer of state 44515
all amounts that the tax commissioner receives pursuant to this 44516
chapter. The treasurer of state shall credit ninety-eight and 44517
one-half per cent of such remittances to the municipal income tax 44518
fund, which is hereby created in the state treasury, and credit 44519
the remainder to the municipal income tax administrative fund, 44520
which is hereby created in the state treasury. ~~The treasurer of~~ 44521
~~state shall indicate on the report the date it was filed and the~~ 44522
~~amount remitted, and immediately shall transmit the report to the~~ 44523
~~tax commissioner.~~ 44524

(B) Any taxpayer that has been granted an extension for 44525
filing a federal income tax return may request an extension for 44526
filing the return required under this section by filing with the 44527
tax commissioner a copy of the taxpayer's request for the federal 44528

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filing extension. The request shall be filed not later than the
last day for filing the return as required under division (A) of
this section. If such a request is properly and timely filed, the
tax commissioner shall extend the last day for filing the return
required under this section for the same period for which the
federal filing extension was granted. The tax commissioner may
deny the filing extension request only if the taxpayer fails to
timely file the request, fails to file a copy of the federal
extension request, owes past due taxes, interest, or penalty under
this chapter, or has failed to file a required report or other
document for a prior taxable year. The granting of an extension
under this section does not extend the last day for paying taxes
without penalty pursuant to this chapter unless the tax
commissioner extends the payment date.

(C) The annual report shall include statements of the
following facts as of the last day of the taxpayer's taxable year:

(1) The name of the taxpayer;

(2) The name of the state or country under the laws of which
it is incorporated;

(3) The location of its principal office in this state and,
in the case of a taxpayer organized under the laws of another
state, the principal place of business in this state and the name
and address of the officer or agent of the taxpayer in charge of
the business conducted in this state;

(4) The names of the president, secretary, treasurer, and
statutory agent in this state, with the post-office address of
each;

(5) The date on which the taxpayer's taxable year begins and
ends;

(6) The taxpayer's federal taxable income during the
taxpayer's taxable year;

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(7) Any other information the tax commissioner requires for 44560
the proper administration of this chapter. 44561

(D) The tax commissioner may require any reports required 44562
under this chapter to be filed in an electronic format. 44563

(E) A municipal corporation may not require a taxpayer 44564
required to file a report under this section to file a report of 44565
the taxpayer's income, but a municipal corporation may require a 44566
taxpayer to report to the municipal corporation the value of the 44567
taxpayer's real and tangible personal property situated in the 44568
municipal corporation, compensation paid by the taxpayer to its 44569
employees in the municipal corporation, and sales made in the 44570
municipal corporation by the taxpayer, to the extent necessary for 44571
the municipal corporation to compute the taxpayer's municipal 44572
property, payroll, and sales factors for the municipal 44573
corporation. 44574

(F) On or before the thirty-first day of January each year, 44575
each municipal corporation imposing a tax on income shall certify 44576
to the tax commissioner the rate of the tax in effect on the first 44577
day of January of that year. If any municipal corporation fails to 44578
certify its income tax rate as required by this division, the tax 44579
commissioner shall notify the director of budget and management, 44580
who, upon receiving such notification, shall withhold from each 44581
payment made to the municipal corporation under section 5745.05 of 44582
the Revised Code fifty per cent of the amount of the payment 44583
otherwise due the municipal corporation under that section as 44584
computed on the basis of the tax rate most recently certified 44585
until the municipal corporation certifies the tax rate in effect 44586
on the first day of January of that year. 44587

The tax rate used to determine the tax payable to a municipal 44588
corporation under this section for a taxpayer's taxable year shall 44589
be the tax rate in effect in a municipal corporation on the first 44590
day of January in that taxable year. If a taxpayer's taxable year 44591

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is for a period less than twelve months that does not include the
first day of January, the tax rate used to determine the tax
payable to a municipal corporation under this section for the
taxpayer's taxable year shall be the tax rate in effect in a
municipal corporation on the first day of January in the preceding
taxable year.

Sec. 5745.04. (A) As used in this section, "combined tax
liability" means the total of a taxpayer's income tax liabilities
to all municipal corporations in this state for a taxable year.

(B) Beginning with its taxable year beginning in 2003, each
taxpayer shall file a declaration of estimated tax report with,
and remit estimated taxes to the tax commissioner, payable to the
treasurer of state, at the times and in the amounts prescribed in
divisions (B)(1) to (4) of this section. This division also
applies to a taxpayer having a taxable year consisting of fewer
than twelve months, at least one of which is in 2002, that ends
before January 1, 2003.

(1) Not less than twenty-five per cent of the combined tax
liability for the preceding taxable year or twenty per cent of the
combined tax liability for the current taxable year shall have
been remitted not later than the fifteenth day of the fourth month
after the end of the preceding taxable year.

(2) Not less than fifty per cent of the combined tax
liability for the preceding taxable year or forty per cent of the
combined tax liability for the current taxable year shall have
been remitted not later than the fifteenth day of the sixth month
after the end of the preceding taxable year.

(3) Not less than seventy-five per cent of the combined tax
liability for the preceding taxable year or sixty per cent of the
combined tax liability for the current taxable year shall have
been remitted not later than the fifteenth day of the ninth month

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after the end of the preceding taxable year.

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(4) Not less than one hundred per cent of the combined tax liability for the preceding taxable year or eighty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the twelfth month after the end of the preceding taxable year.

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(C) Each taxpayer shall report on the declaration of estimated tax report the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.

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(D) Upon receiving a declaration of estimated tax report and remittance of estimated taxes under this section, the tax commissioner shall immediately forward to the treasurer of state such remittance. The treasurer of state shall credit ninety-eight and one-half per cent of the remittance to the municipal income tax fund and credit the remainder to the municipal income tax administrative fund, ~~and shall transmit the report to the tax commissioner.~~

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(E) If any remittance of estimated taxes is for one thousand dollars or more, the taxpayer shall make the remittance by electronic funds transfer as prescribed by section 5745.04 of the Revised Code.

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(F) Notwithstanding section 5745.08 or 5745.09 of the Revised Code, no penalty or interest shall be imposed on a taxpayer if the declaration of estimated tax report is properly filed, and the estimated tax is ~~remitted~~ paid, within the time prescribed by division (B) of this section.

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Sec. 5747.122. (A) The tax commissioner, in accordance with section 5101.184 of the Revised Code, shall cooperate with the director of job and family services to collect overpayments of

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assistance under Chapter 5107., 5111., or 5115., former Chapter 44653
5113., or ~~sections~~ section 5101.54 to ~~5101.543~~ of the Revised Code 44654
from refunds of state income taxes for taxable year 1992 and 44655
thereafter that are payable to the recipients of such 44656
overpayments. 44657

(B) At the request of the department of job and family 44658
services in connection with the collection of an overpayment of 44659
assistance from a refund of state income taxes pursuant to this 44660
section and section 5101.184 of the Revised Code, the tax 44661
commissioner shall release to the department the home address and 44662
social security number of any recipient of assistance whose 44663
overpayment may be collected from a refund of state income taxes 44664
under those sections. 44665

(C) In the case of a joint income tax return for two people 44666
who were not married to each other at the time one of them 44667
received an overpayment of assistance, only the portion of a 44668
refund that is due to the recipient of the overpayment shall be 44669
available for collection of the overpayment under this section and 44670
section 5101.184 of the Revised Code. The tax commissioner shall 44671
determine such portion. A recipient's spouse who objects to the 44672
portion as determined by the commissioner may file a complaint 44673
with the commissioner within twenty-one days after receiving 44674
notice of the collection, and the commissioner shall afford the 44675
spouse an opportunity to be heard on the complaint. The 44676
commissioner shall waive or extend the twenty-one-day period if 44677
the recipient's spouse establishes that such action is necessary 44678
to avoid unjust, unfair, or unreasonable results. After the 44679
hearing, the commissioner shall make a final determination of the 44680
portion of the refund available for collection of the overpayment. 44681

(D) The welfare overpayment intercept fund is hereby created 44682
in the state treasury. The tax commissioner shall deposit amounts 44683
collected from income tax refunds under this section to the credit 44684

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of the welfare overpayment intercept fund. The director of job and family services shall distribute money in the fund in accordance with appropriate federal or state laws and procedures regarding collection of welfare overpayments.

Sec. 5747.221. For (A) As used in this section, "investment pass-through entity" has the same meaning as in section 5733.401 of the Revised Code.

(B) Except as provided in division (C) of this section, for the purposes of sections 5747.20, 5747.21, and 5747.22 of the Revised Code, no item of income or deduction shall be allocated or apportioned to this state to the extent that such item represents or relates to the portion of an adjusted qualifying amount for which the withholding tax is not imposed under section 5747.41 of the Revised Code by reason of division (C) of section 5733.401 of the Revised Code. This section shall be applied without regard to division (I) of section 5733.40 of the Revised Code.

(C) If a taxpayer has a direct or indirect investment in an investment pass-through entity that has a direct or indirect investment in any other pass-through entity, division (B) of this section does not apply to any item of income, gain, deduction, or loss where, under section 5747.231 of the Revised Code, the item is directly or indirectly attributable to either of the following:

(1) A distributive share of income or gain from a pass-through entity that does not qualify as an investment pass-through entity;

(2) A pass-through entity's income or gain to which division (C) of section 5733.401 of the Revised Code does not apply.

An indirect investment includes any interest that a person constructively owns on account of the attribution rules set forth

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in section 267, 318, or 1563 of the Internal Revenue Code.

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Sec. 5747.39. As used in this section, "eligible employee" and "eligible training costs" have the same meanings as in section 5733.42 of the Revised Code, and "pass-through entity" includes a sole proprietorship.

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For taxable years beginning after December 31, ~~2000~~ 2002, there is hereby allowed a nonrefundable credit against the tax imposed by section 5747.02 of the Revised Code for a taxpayer that is an investor in a pass-through entity for which a tax credit certificate is issued under section 5733.42 of the Revised Code. The amount of eligible training costs for which a credit may be claimed by all taxpayers that are investors in an entity shall equal one-half of the average of the eligible training costs incurred by the entity during the three calendar ~~years that end~~ year period that ends in the taxable year for which the credit is claimed, but shall not exceed one thousand dollars for each eligible employee on account of whom such costs were paid or incurred by the entity, and the total amount of credits that may be claimed by all such taxpayers shall not exceed one hundred thousand dollars each year. Each taxpayer's credit shall be claimed for the taxpayer's taxable year that includes the last day of the third calendar year of the three-year period during which eligible training costs are paid or incurred by the entity. The credit may be claimed for eligible training costs paid or incurred on or before December 31, ~~2003~~ 2005. The

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If a pass-through entity, on or before June 30, 2001, had properly filed an application for the credit on the basis of eligible training costs paid or incurred in calendar year 1999, 2000, or 2001 as provided in division (C) of section 5733.42 of the Revised Code, the director of job and family services may authorize a credit for the eligible training costs for which the

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application was filed subject to the limitations and requirements 44746
of this section and section 5733.42 of the Revised Code, but the 44747
tax credit certificate may be applied only to a taxpayer's tax 44748
liability for the taxpayer's taxable year beginning in 2003. The 44749
credit claimed by such a taxpayer shall be computed in the manner 44750
prescribed by this section; is subject to the limitations of this 44751
section on the amount of the credit for each eligible employee and 44752
for all taxpayers with respect to the same entity each year; and 44753
shall be in addition to any credit claimed by the taxpayer under 44754
this section for the taxpayer's taxable year beginning in 2003. 44755
For the purpose of the limitation on the amount of the credit that 44756
may be claimed by all taxpayers with respect to the same entity 44757
for a taxable year beginning in 2003, tax credit certificates 44758
issued pursuant to applications filed before June 30, 2001, shall 44759
not be considered as being claimed for that taxable year. 44760

The amount of a taxpayer's credit shall equal the taxpayer's 44761
interest in the entity on the last day of the third calendar year 44762
of the three-year period ending in or with the last day of the 44763
taxpayer's taxable year, multiplied by the credit available to the 44764
entity as computed by the entity. 44765

The credit shall be claimed in the order prescribed by 44766
section 5747.98 of the Revised Code. A taxpayer may carry forward 44767
the credit to the extent that the taxpayer's credit exceeds the 44768
taxpayer's tax due after allowing for any other credits that 44769
precede the credit allowed by this section in the order prescribed 44770
by section 5747.98 of the Revised Code. The taxpayer may carry the 44771
excess credit forward for three taxable years following the 44772
taxable year for which the taxpayer first claims the credit under 44773
this section. 44774

A pass-through entity shall apply to the director of job and 44775
family services for a tax credit certificate in the manner 44776
prescribed by division (C) of section 5733.42 of the Revised Code. 44777

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Divisions (C) to (H) of that section govern the tax credit allowed 44778
by this section, except that "taxable year" shall be substituted 44779
for "tax year" wherever that phrase appears in those divisions, 44780
and that "pass-through entity" shall be substituted for "taxpayer" 44781
wherever "taxpayer" appears in those divisions. 44782

Sec. 5749.06. Each severer liable for the tax imposed by 44783
section 5749.02 of the Revised Code shall make and file returns 44784
with the tax commissioner in the prescribed form and as of the 44785
prescribed times, computing and reflecting therein the tax as 44786
required by this chapter. 44787

The returns shall be filed for every quarterly period, which 44788
periods shall end on the thirty-first of March, the thirtieth day 44789
of June, the thirtieth day of September, and the thirty-first day 44790
of December of each year, as required by this section, unless a 44791
different return period is prescribed for a taxpayer by the tax 44792
commissioner. 44793

A separate return shall be filed for each calendar quarterly 44794
period, or other period, or any part thereof, during which the 44795
severer holds a license as provided by section 5749.04 of the 44796
Revised Code, or is required to hold such license, and such return 44797
shall be filed within forty-five days after the last day of each 44798
such calendar month, or other period, or any part thereof, for 44799
which such return is required and shall include remittance payable 44800
to the treasurer of state of the amount of tax due. All such 44801
returns shall contain such information as the commissioner may 44802
require to fairly administer the tax. 44803

All returns shall be signed by the severer, shall contain the 44804
full and complete information requested, and shall be made under 44805
penalty of perjury. 44806

If the commissioner believes that quarterly payments of tax 44807
would result in a delay which might jeopardize the collection of 44808

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such tax payments, the commissioner may order that such payments
be made weekly, or more frequently if necessary, such payments to
be made not later than seven days following the close of the
period for which the jeopardy payment is required. Such an order
shall be delivered to the taxpayer personally or by certified mail
and shall remain in effect until the commissioner notifies the
taxpayer to the contrary.

Upon good cause the commissioner may extend the period for
filing any notice or return required to be filed under this
section, and may remit all or a part of penalties that may become
due under this chapter.

Any tax not paid by the day the tax is due shall bear
interest computed at the rate per annum prescribed by section
5703.47 of the Revised Code on that amount of tax due from the day
that such amount was originally required to be paid to the day of
actual payment or to the day an assessment was issued under
section 5749.07 or 5749.10 of the Revised Code, whichever occurs
first.

The severer shall make all payments payable to the treasurer
of state. All amounts that the tax commissioner receives under
this section shall be deemed to be revenue from taxes imposed
under this chapter. The tax commissioner shall immediately forward
to the treasurer of state all amounts received under this section.

Sec. 6101.25. The board of directors of a conservancy
district may construct, improve, operate, maintain, and protect
parks, parkways, forest preserves, bathing beaches, playgrounds,
and other recreational facilities upon the lands owned or
controlled by the district, or upon lands located within the
district owned or controlled by the United States government or
any department of it, by this state or any department or division
of it, or by any political subdivision, if authorized by lease,

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contract, or other arrangements with the appropriate agency of 44840
government having ownership or control. The board may acquire by 44841
lease, purchase, or appropriation property additional to that 44842
required for the purposes for which the district was incorporated, 44843
in order to provide for the protection, more adequate development, 44844
and fuller public use and enjoyment of the improvements and 44845
facilities. The board may impose and collect charges for the use 44846
of the properties, improvements, and facilities maintained or 44847
operated by the district for recreational purposes. Moneys 44848
collected from these charges may be used to promote the district's 44849
recreational facilities. 44850

In case the revenues derived or to be derived from the 44851
properties, improvements, and facilities maintained, operated, 44852
used, or acquired by the district for recreational purposes are 44853
not sufficient for the purposes of this section, the board, with 44854
the approval of the court, may provide for the payment of 44855
obligations incurred under this section by the levy of special 44856
assessments upon all the taxable property of the district and upon 44857
public corporations having lands within the district. 44858

In no case shall the obligations incurred under this section 44859
be paid from the proceeds of special assessments levied under 44860
section 6101.48 or 6101.53 of the Revised Code, or of bonds or 44861
notes issued in anticipation of them. After special assessments 44862
against the taxable property and public corporations are approved 44863
by the court, the board of appraisers of the conservancy district 44864
shall appraise the benefits to be conferred on each parcel of 44865
taxable property and public corporation by reason of the 44866
acquisition and construction of the properties and improvements 44867
authorized by the board of directors under this section, and shall 44868
appraise the damages accruing to persons and public corporations 44869
from the improvements. The provisions of this chapter that refer 44870
to the determination of benefits and damages apply to the 44871

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appraisals made under this section, but they shall be separate 44872
from other appraisals of benefits and damages made under this 44873
chapter, and separate records of them shall be prepared. After the 44874
appraisal of benefits has been approved by the court, and within 44875
the amount of benefits so determined, the board of directors may 44876
levy assessments on the taxable property and public corporations 44877
benefited to pay the cost of the properties and improvements 44878
acquired and constructed under this section, and may issue bonds 44879
and notes in anticipation of the collection of these assessments. 44880
In addition, the board of directors may annually levy a 44881
maintenance assessment for the purposes of this section on the 44882
taxable property and public corporations upon the basis of total 44883
appraised benefits. The provisions of this chapter that relate to 44884
assessments for district purposes and to bonds and notes issued in 44885
anticipation of the assessments apply to the assessments 44886
authorized under this section and the bonds and notes issued in 44887
anticipation of the assessments. Improvement, bond retirement, and 44888
maintenance funds shall be established for recreational purposes 44889
in conformity with section 6101.44 of the Revised Code, which 44890
shall be separate from one another and from other funds of the 44891
district, and no transfers shall be made to them from the other 44892
funds of the district. The proceeds of all bonds, notes, and 44893
assessments authorized by this section and all receipts derived 44894
from the recreational properties, improvements, and facilities 44895
owned, controlled, operated, or maintained by the district shall 44896
be paid into those funds, and all expenditures in accordance with 44897
this section shall be made from them. 44898

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 44899
of this section, on and after January 1, 1994, no person shall 44900
operate or maintain a public water system in this state without a 44901
license issued by the director of environmental protection. A 44902
person who operates or maintains a public water system on January 44903

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1, 1994, shall obtain an initial license under this section in 44904
accordance with the following schedule: 44905

(1) If the public water system is a community water system, 44906
not later than January 31, 1994; 44907

(2) If the public water system is not a community water 44908
system and serves a nontransient population, not later than 44909
January 31, 1994; 44910

(3) If the public water system is not a community water 44911
system and serves a transient population, not later than January 44912
31, 1995. 44913

A person proposing to operate or maintain a new public water 44914
system after January 1, 1994, in addition to complying with 44915
section 6109.07 of the Revised Code and rules adopted under it, 44916
shall submit an application for an initial license under this 44917
section to the director prior to commencing operation of the 44918
system. 44919

A license or license renewal issued under this section shall 44920
be renewed annually. Such a license or license renewal shall 44921
expire on the thirtieth day of January in the year following its 44922
issuance. A license holder that proposes to continue operating the 44923
public water system for which the license or license renewal was 44924
issued shall apply for a license renewal at least thirty days 44925
prior to that expiration date. 44926

The director shall adopt, and may amend and rescind, rules in 44927
accordance with Chapter 119. of the Revised Code establishing 44928
procedures governing and information to be included on 44929
applications for licenses and license renewals under this section. 44930
Through June 30, 2002 2004, each application shall be accompanied 44931
by the appropriate fee established under division (M) of section 44932
3745.11 of the Revised Code, provided that an applicant for an 44933
initial license who is proposing to operate or maintain a new 44934

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public water system after January 1, 1994, shall submit a fee that
equals a prorated amount of the appropriate fee established under
that division for the remainder of the licensing year.

(B) Not later than thirty days after receiving a completed
application and the appropriate license fee for an initial license
under division (A) of this section, the director shall issue the
license for the public water system. Not later than thirty days
after receiving a completed application and the appropriate
license fee for a license renewal under division (A) of this
section, the director shall do one of the following:

(1) Issue the license renewal for the public water system;

(2) Issue the license renewal subject to terms and conditions
that the director determines are necessary to ensure compliance
with this chapter and rules adopted under it;

(3) Deny the license renewal if the director finds that the
public water system was not operated in substantial compliance
with this chapter and rules adopted under it.

(C) The director may suspend or revoke a license or license
renewal issued under this section if the director finds that the
public water system was not operated in substantial compliance
with this chapter and rules adopted under it. The director shall
adopt, and may amend and rescind, rules in accordance with Chapter
119. of the Revised Code governing such suspensions and
revocations.

(D)(1) As used in division (D) of this section, "church"
means a fellowship of believers, congregation, society,
corporation, convention, or association that is formed primarily
or exclusively for religious purposes and that is not formed or
operated for the private profit of any person.

(2) This section does not apply to a church that operates or
maintains a public water system solely to provide water for that

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church or for a campground that is owned by the church and
operated primarily or exclusively for members of the church and
their families. A church that, on or before March 5, 1996, has
obtained a license under this section for such a public water
system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic
school that meets minimum standards of the state board of
education that operates or maintains a public water system solely
to provide water for that school.

Sec. 6111.035. (A) The director of environmental protection,
consistent with the Federal Water Pollution Control Act and the
regulations adopted thereunder, without application therefor, may
issue, modify, revoke, or terminate a general permit under this
chapter for both of the following:

(1) Discharge of stormwater; the discharge of liquids,
sediments, solids, or water-borne mining related waste, such as,
but not limited to, acids, metallic cations, or their salts, from
coal mining and reclamation operations as defined in section
1513.01 of the Revised Code; or treatment works whose discharge
would have de minimis impact on the waters of the state receiving
the discharge;

(2) Installation or modification of disposal systems or any
parts thereof, including disposal systems for stormwater or for
coal mining and reclamation operations as defined in section
1513.01 of the Revised Code.

A general permit shall apply to a class or category of
discharges or disposal systems or to persons conducting similar
activities, within any area of the state, including the entire
state.

A general permit shall not be issued unless the director

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determines that the discharges authorized by the permit will have
only minimal cumulative adverse effects on the environment when
the discharges are considered collectively and individually and
if, in the opinion of the director, the discharges, installations,
or modifications authorized by the permit are more appropriately
authorized by a general permit than by an individual permit.

A general permit shall be issued subject to applicable
mandatory provisions and may be issued subject to any applicable
permissive provision of the Federal Water Pollution Control Act
and the regulations adopted thereunder.

The director, at the director's discretion, may require any
person authorized to discharge or to install or modify a disposal
system under a general permit to apply for and obtain an
individual permit for the discharge, installation, or
modification. When a particular discharge, installation, or
modification is subject to an individual permit, a general permit
shall not apply to that discharge, installation, or modification
until the individual permit is revoked, terminated, or modified to
exclude the discharge, installation, or modification.

(B) Notwithstanding any requirement under Chapter 119. of the
Revised Code concerning the manner in which notice of a permit
action is provided, the director shall not be required to provide
certified mail notice to persons subject to the issuance,
modification, revocation, or termination of a general permit under
division (A) of this section.

Notwithstanding section 3745.07 of the Revised Code
concerning the location of newspapers in which notices of permit
actions are published, the director shall cause notice of the
issuance, modification, revocation, or termination of a general
permit to be published in the newspapers of general circulation
determined by the director to provide reasonable notice to persons
affected by the permit action in the geographic area covered by

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the general permit within the time periods prescribed by section 45028
3745.07 of the Revised Code. Any notice under this section or 45029
section 3745.07 of the Revised Code concerning the issuance, 45030
modification, revocation, or termination of a general permit shall 45031
include a summary of the permit action and instructions on how to 45032
obtain a copy of the full text of the permit action. The director 45033
may take other appropriate measures, such as press releases and 45034
notice to trade journals, associations, and other persons known to 45035
the director to desire notification, in order to provide notice of 45036
the director's actions concerning the issuance, modification, 45037
revocation, or termination of a general permit; however, the 45038
failure to provide such notice shall not invalidate any general 45039
permit. 45040

(C) Notwithstanding any other provision of the Revised Code, 45041
a person subject to the proposed issuance, modification, 45042
revocation, or termination of a general permit under division (A) 45043
of this section may request an adjudication hearing pursuant to 45044
section 119.07 of the Revised Code concerning the proposed action 45045
within thirty days after publication of the notice of the proposed 45046
action in newspapers of general circulation pursuant to division 45047
(B) of this section. This division shall not be interpreted to 45048
affect the authority of the director to take actions on general 45049
permits in forms other than proposed general permits. 45050

(D) The director may exercise all incidental powers required 45051
to carry out this section, including, without limitation, the 45052
adoption, amendment, and rescission of rules to implement a 45053
general permit program for classes or categories of dischargers or 45054
disposal systems. 45055

(E) On and after the date on which the United States 45056
environmental protection agency approves the NPDES program 45057
submitted by the director of agriculture under section 903.08 of 45058
the Revised Code, this section does not apply to storm water from 45059

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an animal feeding facility, as defined in section 903.01 of the
Revised Code, or to manure, as defined in that section.

(F) As used in this section, "Federal Water Pollution Control
Act" means the "Federal Water Pollution Control Act Amendments of
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended by the "Clean
Water Act of 1977," 91 Stat. 1566, 33 U.S.C.A. 1251, the "Act of
October 21, 1980," 94 Stat. 2360, 33 U.S.C.A. 1254, the "Municipal
Wastewater Treatment Construction Grant Amendments of 1981," 95
Stat. 1623, 33 U.S.C.A. 1281, and the "Water Quality Act of 1987,"
101 Stat. 7, 33 U.S.C.A. 1251.

Sec. 6111.044. Upon receipt of an application for an
injection well drilling permit, an injection well operating
permit, a renewal of an injection well operating permit, or a
modification of an injection well drilling permit, operating
permit, or renewal of an operating permit, the director of
environmental protection shall determine whether the application
is complete and demonstrates that the activities for which the
permit, renewal permit, or modification is requested will comply
with the Federal Water Pollution Control Act and regulations
adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661
(1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted
under it; and this chapter and the rules adopted under it. If the
application demonstrates that the proposed activities will not
comply or will pose an unreasonable risk of inducing seismic
activity, inducing geologic fracturing, or contamination of an
underground source of drinking water, the director shall deny the
application. If the application does not make the required
demonstrations, the director shall return it to the applicant with
an indication of those matters about which a required
demonstration was not made. If the director determines that the
application makes the required demonstrations, the director shall
transmit copies of the application and all of the accompanying

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maps, data, samples, and information to the chief of the division 45092
of mineral resources management, the chief of the division of 45093
geological survey, and the chief of the division of water in the 45094
department of natural resources. 45095

The chief of the division of geological survey shall comment 45096
upon the application if the chief determines that the proposed 45097
well or injection will present an unreasonable risk of loss or 45098
damage to valuable mineral resources. If the chief submits 45099
comments on the application, those comments shall be accompanied 45100
by an evaluation of the geological factors upon which the comments 45101
are based, including fractures, faults, earthquake potential, and 45102
the porosity and permeability of the injection zone and confining 45103
zone, and by the documentation supporting the evaluation. The 45104
director shall take into consideration the chief's comments, and 45105
the accompanying evaluation of geologic factors and supporting 45106
documentation, when considering the application. The director 45107
shall provide written notice to the chief of the director's 45108
decision on the application and, if the chief's comments are not 45109
included in the permit, renewal permit, or modification, of the 45110
director's rationale for not including them. 45111

The chief of the division of mineral resources management 45112
shall comment upon the application if the chief determines that 45113
the proposed well or injection will present an unreasonable risk 45114
that waste or contamination of recoverable oil or gas in the earth 45115
will occur. If the chief submits comments on the application, 45116
those comments shall be accompanied by an evaluation of the oil or 45117
gas reserves that, in the best professional judgment of the chief, 45118
are recoverable and will be adversely affected by the proposed 45119
well or injection, and by the documentation supporting the 45120
evaluation. The director shall take into consideration the chief's 45121
comments, and the accompanying evaluation and supporting 45122
documentation, when considering the application. The director 45123

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shall provide written notice to the chief of the director's 45124
decision on the application and, if the chief's comments are not 45125
included in the permit, renewal permit, or modification, of the 45126
director's rationale for not including them. 45127

The chief of the division of water shall assist the director 45128
in determining whether all underground sources of drinking water 45129
in the area of review of the proposed well or injection have been 45130
identified and correctly delineated in the application. If the 45131
application fails to identify or correctly delineate an 45132
underground source of drinking water, the chief shall provide 45133
written notice of that fact to the director. 45134

The chief of the division of mineral resources management 45135
also shall review the application as follows: 45136

If the application concerns the drilling or conversion of a 45137
well or the injection into a well that is not or is not to be 45138
located within five thousand feet of the excavation and workings 45139
of a mine, the chief of the division of mineral resources 45140
management shall note upon the application that it has been 45141
examined by the division of mineral resources management, retain a 45142
copy of the application and map, and immediately return a copy of 45143
the application to the director. 45144

If the application concerns the drilling or conversion of a 45145
well or the injection into a well that is or is to be located 45146
within five thousand feet, but more than five hundred feet from 45147
the surface excavations and workings of a mine, the chief of the 45148
division of mineral resources management immediately shall notify 45149
the owner or lessee of the mine that the application has been 45150
filed and send to the owner or lessee a copy of the map 45151
accompanying the application setting forth the location of the 45152
well. The chief of the division of mineral resources management 45153
shall note on the application that the notice has been sent to the 45154
owner or lessee of the mine, retain a copy of the application and 45155

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map, and immediately return a copy of the application to the 45156
director with the chief's notation on it. 45157

If the application concerns the drilling or conversion of a 45158
well or the injection into a well that is or is to be located 45159
within five thousand feet of the underground excavations and 45160
workings of a mine or within five hundred feet of the surface 45161
excavations and workings of a mine, the chief of the division of 45162
mineral resources management immediately shall notify the owner or 45163
lessee of the mine that the application has been filed and send to 45164
the owner or lessee a copy of the map accompanying the application 45165
setting forth the location of the well. If the owner or lessee 45166
objects to the application, the owner or lessee shall notify the 45167
chief of the division of mineral resources management of the 45168
objection, giving the reasons, within six days after the receipt 45169
of the notice. If the chief of the division of mineral resources 45170
management receives no objections from the owner or lessee of the 45171
mine within ten days after the receipt of the notice by the owner 45172
or lessee, or if in the opinion of the chief of the division of 45173
mineral resources management the objections offered by the owner 45174
or lessee are not sufficiently well-founded, the chief shall 45175
retain a copy of the application and map and return a copy of the 45176
application to the director with any applicable notes concerning 45177
it. 45178

If the chief of the division of mineral resources management 45179
receives an objection from the owner or lessee of the mine as to 45180
the application, within ten days after receipt of the notice by 45181
the owner or lessee, and if in the opinion of the chief the 45182
objection is well-founded, the chief shall disapprove the 45183
application and immediately return it to the director together 45184
with the chief's reasons for the disapproval. The director 45185
promptly shall notify the applicant for the permit, renewal 45186
permit, or modification of the disapproval. The applicant may 45187

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appeal the disapproval of the application by the chief of the
division of mineral resources management to the ~~mine-examining~~
~~board~~ reclamation commission created under section ~~1561.10~~ 1513.05
of the Revised Code, and the ~~board~~ commission shall hear the
appeal in accordance with section ~~1561.53~~ 1513.13 of the Revised
Code. The appeal shall be filed within thirty days from the date
the applicant receives notice of the disapproval. No comments
concerning or disapproval of an application shall be delayed by
the chief of the division of mineral resources management for more
than fifteen days from the date of sending of notice to the mine
owner or lessee as required by this section.

The director shall not approve an application for an
injection well drilling permit, an injection well operating
permit, a renewal of an injection well operating permit, or a
modification of an injection well drilling permit, operating
permit, or renewal of an operating permit for a well that is or is
to be located within three hundred feet of any opening of any mine
used as a means of ingress, egress, or ventilation for persons
employed in the mine, nor within one hundred feet of any building
or flammable structure connected with the mine and actually used
as a part of the operating equipment of the mine, unless the chief
of the division of mineral resources management determines that
life or property will not be endangered by drilling and operating
the well in that location.

Upon review by the chief of the division of mineral resources
management, the chief of the division of geological survey, and
the chief of the division of water, and if the chief of the
division of mineral resources management has not disapproved the
application, the director shall issue a permit, renewal permit, or
modification with any terms and conditions that may be necessary
to comply with the Federal Water Pollution Control Act and
regulations adopted under it; the "Safe Drinking Water Act," 88

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Stat. 1661 (1974), 42 U.S.C.A. 300(f) as amended, and regulations 45220
adopted under it; and this chapter and the rules adopted under it. 45221
The director shall not issue a permit, renewal permit, or 45222
modification to an applicant if the applicant or persons 45223
associated with the applicant have engaged in or are engaging in a 45224
substantial violation of this chapter that is endangering or may 45225
endanger human health or the environment or if, in the case of an 45226
applicant for an injection well drilling permit, the applicant, at 45227
the time of applying for the permit, did not hold an injection 45228
well operating permit or renewal of an injection well drilling 45229
permit and failed to demonstrate sufficient expertise and 45230
competency to operate the well in compliance with the applicable 45231
provisions of this chapter. 45232

If the director receives a disapproval from the chief of the 45233
division of mineral resources management regarding an application 45234
for an injection well drilling or operating permit, renewal 45235
permit, or modification, if required, the director shall issue an 45236
order denying the application. 45237

The director need not issue a proposed action under section 45238
3745.07 of the Revised Code or hold an adjudication hearing under 45239
that section and Chapter 119. of the Revised Code before issuing 45240
or denying a permit, renewal permit, or modification of a permit 45241
or renewal permit. Before issuing or renewing a permit to drill or 45242
operate a class I injection well or a modification of it, the 45243
director shall propose the permit, renewal permit, or modification 45244
in draft form and shall hold a public hearing to receive public 45245
comment on the draft permit, renewal permit, or modification. At 45246
least fifteen days before the public hearing on a draft permit, 45247
renewal permit, or modification, the director shall publish notice 45248
of the date, time, and location of the public hearing in at least 45249
one newspaper of general circulation serving the area where the 45250
well is or is to be located. The proposing of such a draft permit, 45251

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renewal permit, or modification does not constitute the issuance 45252
of a proposed action under section 3745.07 of the Revised Code, 45253
and the holding of the public hearing on such a draft permit, 45254
renewal permit, or modification does not constitute the holding of 45255
an adjudication hearing under that section and Chapter 119. of the 45256
Revised Code. Appeals of orders other than orders of the chief of 45257
the division of mineral resources management shall be taken under 45258
sections 3745.04 to 3745.08 of the Revised Code. 45259

The director may order that an injection well drilling permit 45260
or an injection well operating permit or renewal permit be 45261
suspended and that activities under it cease after determining 45262
that those activities are occurring in violation of law, rule, 45263
order, or term or condition of the permit. Upon service of a copy 45264
of the order upon the permit holder or the permit holder's 45265
authorized agent or assignee, the permit and activities under it 45266
shall be suspended immediately without prior hearing and shall 45267
remain suspended until the violation is corrected and the order of 45268
suspension is lifted. If a violation is the second within a 45269
one-year period, the director, after a hearing, may revoke the 45270
permit. 45271

The director may order that an injection well drilling permit 45272
or an injection well operating permit or renewal permit be 45273
suspended and that activities under it cease if the director has 45274
reasonable cause to believe that the permit would not have been 45275
issued if the information available at the time of suspension had 45276
been available at the time a determination was made by one of the 45277
agencies acting under authority of this section. Upon service of a 45278
copy of the order upon the permit holder or the permit holder's 45279
authorized agent or assignee, the permit and activities under it 45280
shall be suspended immediately without prior hearing, but a permit 45281
may not be suspended for that reason without prior hearing unless 45282
immediate suspension is necessary to prevent waste or 45283

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contamination of oil or gas, comply with the Federal Water
Pollution Control Act and regulations adopted under it; the "Safe
Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as
amended, and regulations adopted under it; and this chapter and
the rules adopted under it, or prevent damage to valuable mineral
resources, prevent contamination of an underground source of
drinking water, or prevent danger to human life or health. If
after a hearing the director determines that the permit would not
have been issued if the information available at the time of the
hearing had been available at the time a determination was made by
one of the agencies acting under authority of this section, the
director shall revoke the permit.

When a permit has been revoked, the permit holder or other
person responsible for it immediately shall plug the well in the
manner required by the director.

The director may issue orders to prevent or require cessation
of violations of this section, section 6111.043, 6111.045,
6111.046, or 6111.047 of the Revised Code, rules adopted under any
of those sections, and terms or conditions of permits issued under
any of them. The orders may require the elimination of conditions
caused by the violation.

Section 2. That existing sections 9.06, 9.821, 9.822, 101.15,
101.27, 101.30, 101.34, 101.37, 101.72, 101.73, 102.02, 102.03,
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 5101.852, 5111.341, 5111.88, 5126.054, 5139.28, and 5741.18 of the 45387
 Revised Code are hereby repealed. 45388
 45389

Section 3. That the versions of sections 5139.29, 5139.31, 45390
 and 5705.19 of the Revised Code that are scheduled to take effect 45391
 January 1, 2002, be amended to read as follows: 45392

Sec. 5139.29. The department of youth services shall adopt 45393
 and promulgate regulations prescribing the method of calculating 45394
 the amount of and the time and manner for the payment of financial 45395
 assistance granted under sections 5139.27, and 5139.271, ~~and~~ 45396
~~5139.28~~ of the Revised Code, for the construction or acquisition 45397
 of a district detention facility established under section 2152.41 45398
 of the Revised Code, or for the construction and maintenance of a 45399
 school, forestry camp, or other facility established under section 45400
 2151.65 of the Revised Code. 45401

Sec. 5139.31. The department of youth services may inspect 45402
 any school, forestry camp, district detention facility, or other 45403
 facility for which an application for financial assistance has 45404
 been made to the department under section 2152.43, or 2151.651, ~~or~~ 45405
~~2151.652~~ of the Revised Code or for which financial assistance has 45406
 been granted by the department under section 5139.27, 5139.271, 45407
~~5139.28~~, or 5139.281 of the Revised Code. The inspection may 45408

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include, but need not be limited to, examination and evaluation of 45409
the physical condition of the school, forestry camp, district 45410
detention facility, or other facility, including any equipment 45411
used in connection with it; observation and evaluation of the 45412
training and treatment of children admitted to it; examination and 45413
analysis and copying of any papers, records, or other documents 45414
relating to the qualifications of personnel, the commitment of 45415
children to it, and its administration. 45416

Sec. 5705.19. This section does not apply to school districts 45417
or county school financing districts. 45418

The taxing authority of any subdivision at any time and in 45419
any year, by vote of two-thirds of all the members of the taxing 45420
authority, may declare by resolution and certify the resolution to 45421
the board of elections not less than seventy-five days before the 45422
election upon which it will be voted that the amount of taxes that 45423
may be raised within the ten-mill limitation will be insufficient 45424
to provide for the necessary requirements of the subdivision and 45425
that it is necessary to levy a tax in excess of that limitation 45426
for any of the following purposes: 45427

(A) For current expenses of the subdivision, except that the 45428
total levy for current expenses of a detention facility district 45429
or district organized under section 2151.65 of the Revised Code 45430
shall not exceed two mills and that the total levy for current 45431
expenses of a combined district organized under sections 2152.41 45432
and 2151.65 of the Revised Code shall not exceed four mills; 45433

(B) For the payment of debt charges on certain described 45434
bonds, notes, or certificates of indebtedness of the subdivision 45435
issued subsequent to January 1, 1925; 45436

(C) For the debt charges on all bonds, notes, and 45437
certificates of indebtedness issued and authorized to be issued 45438
prior to January 1, 1925; 45439

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(D) For a public library of, or supported by, the subdivision 45440
under whatever law organized or authorized to be supported; 45441
45442

(E) For a municipal university, not to exceed two mills over 45443
the limitation of one mill prescribed in section 3349.13 of the 45444
Revised Code; 45445

(F) For the construction or acquisition of any specific 45446
permanent improvement or class of improvements that the taxing 45447
authority of the subdivision may include in a single bond issue; 45448

(G) For the general construction, reconstruction, 45449
resurfacing, and repair of streets, roads, and bridges in 45450
municipal corporations, counties, or townships; 45451

(H) For recreational purposes; 45452

(I) For the purpose of providing and maintaining fire 45453
apparatus, appliances, buildings, or sites therefor, or sources of 45454
water supply and materials therefor, or the establishment and 45455
maintenance of lines of fire alarm telegraph, or the payment of 45456
permanent, part-time, or volunteer firefighters or firefighting 45457
companies to operate the same, including the payment of the 45458
firefighter employers' contribution required under section 742.34 45459
of the Revised Code, or the purchase of ambulance equipment, or 45460
the provision of ambulance, paramedic, or other emergency medical 45461
services operated by a fire department or firefighting company; 45462

(J) For the purpose of providing and maintaining motor 45463
vehicles, communications, and other equipment used directly in the 45464
operation of a police department, or the payment of salaries of 45465
permanent police personnel, including the payment of the police 45466
officer employers' contribution required under section 742.33 of 45467
the Revised Code, or the payment of the costs incurred by 45468
townships as a result of contracts made with other political 45469
subdivisions in order to obtain police protection, or the 45470

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provision of ambulance or emergency medical services operated by a	45471
police department;	45472
(K) For the maintenance and operation of a county home or	45473
detention facility;	45474
(L) For community mental retardation and developmental	45475
disabilities programs and services pursuant to Chapter 5126. of	45476
the Revised Code, except that the procedure for such levies shall	45477
be as provided in section 5705.222 of the Revised Code;	45478
(M) For regional planning;	45479
(N) For a county's share of the cost of maintaining and	45480
operating schools, district detention facilities, forestry camps,	45481
or other facilities, or any combination thereof, established under	45482
section 2152.41 or 2151.65 of the Revised Code or both of those	45483
sections;	45484
(O) For providing for flood defense, providing and	45485
maintaining a flood wall or pumps, and other purposes to prevent	45486
floods;	45487
(P) For maintaining and operating sewage disposal plants and	45488
facilities;	45489
(Q) For the purpose of purchasing, acquiring, constructing,	45490
enlarging, improving, equipping, repairing, maintaining, or	45491
operating, or any combination of the foregoing, a county transit	45492
system pursuant to sections 306.01 to 306.13 of the Revised Code,	45493
or of making any payment to a board of county commissioners	45494
operating a transit system or a county transit board pursuant to	45495
section 306.06 of the Revised Code;	45496
(R) For the subdivision's share of the cost of acquiring or	45497
constructing any schools, forestry camps, detention facilities, or	45498
other facilities, or any combination thereof, under section	45499
2152.41 or 2151.65 of the Revised Code or both of those sections;	45500

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(S) For the prevention, control, and abatement of air pollution;	45501 45502
(T) For maintaining and operating cemeteries;	45503
(U) For providing ambulance service, emergency medical service, or both;	45504 45505
(V) For providing for the collection and disposal of garbage or refuse, including yard waste;	45506 45507
(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;	45508 45509 45510
(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;	45511 45512
(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;	45513 45514 45515
(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;	45516 45517 45518
(AA) For the maintenance and operation of a free public museum of art, science, or history;	45519 45520
(BB) For the establishment and operation of a 9-1-1 system, as defined in section 4931.40 of the Revised Code;	45521 45522
(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.	45523 45524 45525 45526 45527
(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in	45528 45529

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section 755.16 of the Revised Code; 45530

(EE) For the creation and operation of an office or joint 45531
office of economic development, for any economic development 45532
purpose of the office, and to otherwise provide for the 45533
establishment and operation of a program of economic development 45534
pursuant to sections 307.07 and 307.64 of the Revised Code; 45535

(FF) For the purpose of acquiring, establishing, 45536
constructing, improving, equipping, maintaining, or operating, or 45537
any combination of the foregoing, a township airport, landing 45538
field, or other air navigation facility pursuant to section 505.15 45539
of the Revised Code; 45540

(GG) For the payment of costs incurred by a township as a 45541
result of a contract made with a county pursuant to section 45542
505.263 of the Revised Code in order to pay all or any part of the 45543
cost of constructing, maintaining, repairing, or operating a water 45544
supply improvement; 45545

(HH) For a board of township trustees to acquire, other than 45546
by appropriation, an ownership interest in land, water, or 45547
wetlands, or to restore or maintain land, water, or wetlands in 45548
which the board has an ownership interest, not for purposes of 45549
recreation, but for the purposes of protecting and preserving the 45550
natural, scenic, open, or wooded condition of the land, water, or 45551
wetlands against modification or encroachment resulting from 45552
occupation, development, or other use, which may be styled as 45553
protecting or preserving "greenspace" in the resolution, notice of 45554
election, or ballot form; 45555

(II) For the support by a county of a crime victim assistance 45556
program that is provided and maintained by a county agency or a 45557
private, nonprofit corporation or association under section 307.62 45558
of the Revised Code; 45559

(JJ) For any or all of the purposes set forth in divisions 45560

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(I) and (J) of this section. This division applies only to a township. 45561
45562

(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties. 45563
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(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code; 45566
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(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code; 45568
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45570

(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold agricultural fairs. This division applies only to a county. 45571
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45573

(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements, by a board of township trustees; 45574
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(PP) For both of the purposes set forth in divisions (G) and (OO) of this section. This division applies only to a township. 45579
45580

(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township. 45581
45582

(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements. 45583
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(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county. 45588
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The resolution shall be confined to the purpose or purposes 45590

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described in one division of this section, to which the revenue
derived therefrom shall be applied. The existence in any other
division of this section of authority to levy a tax for any part
or all of the same purpose or purposes does not preclude the use
of such revenues for any part of the purpose or purposes of the
division under which the resolution is adopted.

The resolution shall specify the amount of the increase in
rate that it is necessary to levy, the purpose of that increase in
rate, and the number of years during which the increase in rate
shall be in effect, which may or may not include a levy upon the
duplicate of the current year. The number of years may be any
number not exceeding five, except as follows:

(1) When the additional rate is for the payment of debt
charges, the increased rate shall be for the life of the
indebtedness.

(2) When the additional rate is for any of the following, the
increased rate shall be for a continuing period of time:

(a) For the current expenses for a detention facility
district, a district organized under section 2151.65 of the
Revised Code, or a combined district organized under sections
2152.41 and 2151.65 of the Revised Code;

(b) For providing a county's share of the cost of maintaining
and operating schools, district detention facilities, forestry
camps, or other facilities, or any combination thereof,
established under section 2152.41 or 2151.65 of the Revised Code
or under both of those sections.

(3) When the additional rate is for any of the following, the
increased rate may be for a continuing period of time:

(a) For the purposes set forth in division (I), (J), (U), or
(KK) of this section;

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(b) For the maintenance and operation of a joint recreation district; 45621
45622

(c) A levy imposed by a township for the purposes set forth in division (G) of this section. 45623
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(4) When the increase is for the purpose set forth in division (D) or (CC) of this section or for both of the purposes set forth in divisions (G) and (OO) of this section, the tax levy may be for any specified number of years or for a continuing period of time, as set forth in the resolution. 45625
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(5) When the additional rate is for the purpose described in division (Z) of this section, the increased rate shall be for any number of years not exceeding ten. 45630
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A levy for the purposes set forth in division (I), (J), or (U) of this section, and a levy imposed by a township for the purposes set forth in division (G) of this section, may be reduced pursuant to section 5705.261 or 5705.31 of the Revised Code. A levy for the purposes set forth in division (I), (J), or (U) of this section, and a levy imposed by a township for the purposes set forth in division (G) of this section, may also be terminated or permanently reduced by the taxing authority if it adopts a resolution stating that the continuance of the levy is unnecessary and the levy shall be terminated or that the millage is excessive and the levy shall be decreased by a designated amount. 45633
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A resolution of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under both sections 2152.41 and 2151.65 of the Revised Code may include both current expenses and other purposes, provided that the resolution shall apportion the annual rate of levy between the current expenses and the other purpose or purposes. The apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied 45644
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each year for the current expenses and the other purpose or
purposes shall be limited by the apportionment.

Whenever a board of county commissioners, acting either as
the taxing authority of its county or as the taxing authority of a
sewer district or subdistrict created under Chapter 6117. of the
Revised Code, by resolution declares it necessary to levy a tax in
excess of the ten-mill limitation for the purpose of constructing,
improving, or extending sewage disposal plants or sewage systems,
the tax may be in effect for any number of years not exceeding
twenty, and the proceeds of the tax, notwithstanding the general
provisions of this section, may be used to pay debt charges on any
obligations issued and outstanding on behalf of the subdivision
for the purposes enumerated in this paragraph, provided that any
such obligations have been specifically described in the
resolution.

The resolution shall go into immediate effect upon its
passage, and no publication of the resolution is necessary other
than that provided for in the notice of election.

When the electors of a subdivision have approved a tax levy
under this section, the taxing authority of the subdivision may
anticipate a fraction of the proceeds of the levy and issue
anticipation notes in accordance with section 5705.191 or 5705.193
of the Revised Code.

Section 4. That the existing versions of sections 5139.29,
5139.31, and 5705.19 and the version of section 2151.652 of the
Revised Code that are scheduled to take effect January 1, 2002,
are hereby repealed.

Section 5. Sections 3 and 4 of this act shall take effect on
January 1, 2002.

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Section 6. That the versions of sections 5139.01 and 5139.11 45681
of the Revised Code that are scheduled to take effect January 1, 45682
2002, be amended to read as follows: 45683

Sec. 5139.01. (A) As used in this chapter: 45684

(1) "Commitment" means the transfer of the physical custody 45685
of a child or youth from the court to the department of youth 45686
services. 45687

(2) "Permanent commitment" means a commitment that vests 45688
legal custody of a child in the department of youth services. 45689

(3) "Legal custody," insofar as it pertains to the status 45690
that is created when a child is permanently committed to the 45691
department of youth services, means a legal status in which the 45692
department has the following rights and responsibilities: the 45693
right to have physical possession of the child; the right and duty 45694
to train, protect, and control the child; the responsibility to 45695
provide the child with food, clothing, shelter, education, and 45696
medical care; and the right to determine where and with whom the 45697
child shall live, subject to the minimum periods of, or periods 45698
of, institutional care prescribed in sections 2152.13 to 2152.18 45699
of the Revised Code; provided, that these rights and 45700
responsibilities are exercised subject to the powers, rights, 45701
duties, and responsibilities of the guardian of the person of the 45702
child, and subject to any residual parental rights and 45703
responsibilities. 45704

(4) Unless the context requires a different meaning, 45705
"institution" means a state facility that is created by the 45706
general assembly and that is under the management and control of 45707
the department of youth services or a private entity with which 45708
the department has contracted for the institutional care and 45709
custody of felony delinquents. 45710

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(5) "Full-time care" means care for twenty-four hours a day 45711
for over a period of at least two consecutive weeks. 45712

(6) "Placement" means the conditional release of a child 45713
under the terms and conditions that are specified by the 45714
department of youth services. The department shall retain legal 45715
custody of a child released pursuant to division (C) of section 45716
2152.22 of the Revised Code or division (C) of section 5139.06 of 45717
the Revised Code until the time that it discharges the child or 45718
until the legal custody is terminated as otherwise provided by 45719
law. 45720

(7) "Home placement" means the placement of a child in the 45721
home of the child's parent or parents or in the home of the 45722
guardian of the child's person. 45723

(8) "Discharge" means that the department of youth services' 45724
legal custody of a child is terminated. 45725

(9) "Release" means the termination of a child's stay in an 45726
institution and the subsequent period during which the child 45727
returns to the community under the terms and conditions of 45728
supervised release. 45729

(10) "Delinquent child" has the same meaning as in section 45730
2152.02 of the Revised Code. 45731

(11) "Felony delinquent" means any child who is at least 45732
twelve years of age but less than eighteen years of age and who is 45733
adjudicated a delinquent child for having committed an act that if 45734
committed by an adult would be a felony. "Felony delinquent" 45735
includes any adult who is between the ages of eighteen and 45736
twenty-one and who is in the legal custody of the department of 45737
youth services for having committed an act that if committed by an 45738
adult would be a felony. 45739

(12) "Juvenile traffic offender" has the same meaning as in 45740
section 2152.02 of the Revised Code. 45741

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(13) "Public safety beds" means all of the following: 45742

(a) Felony delinquents who have been committed to the 45743
department of youth services for the commission of an act, other 45744
than a violation of section 2911.01 or 2911.11 of the Revised 45745
Code, that is a category one offense or a category two offense and 45746
who are in the care and custody of an institution or have been 45747
diverted from care and custody in an institution and placed in a 45748
community corrections facility; 45749

(b) Felony delinquents who, while committed to the department 45750
of youth services and in the care and custody of an institution or 45751
a community corrections facility, are adjudicated delinquent 45752
children for having committed in that institution or community 45753
corrections facility an act that if committed by an adult would be 45754
a felony; 45755

(c) Children who satisfy all of the following: 45756

(i) They are at least twelve years of age but less than 45757
eighteen years of age. 45758

(ii) They are adjudicated delinquent children for having 45759
committed acts that if committed by an adult would be a felony. 45760

(iii) They are committed to the department of youth services 45761
by the juvenile court of a county that has had one-tenth of one 45762
per cent or less of the statewide adjudications for felony 45763
delinquents as averaged for the past four fiscal years. 45764

(iv) They are in the care and custody of an institution or a 45765
community corrections facility. 45766

(d) Felony delinquents who, while committed to the department 45767
of youth services and in the care and custody of an institution, 45768
commit in that institution an act that if committed by an adult 45769
would be a felony, who are serving disciplinary time for having 45770
committed that act, and who have been institutionalized or 45771

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institutionalized in a secure facility for the minimum period of 45772
time specified in divisions (A)(1)(b) to (e) of section 2152.16 of 45773
the Revised Code. 45774

(e) Felony delinquents who are subject to and serving a 45775
three-year period of commitment order imposed by a juvenile court 45776
pursuant to divisions (A) and (B) of section 2152.17 of the 45777
Revised Code for an act, other than a violation of section 2911.11 45778
of the Revised Code, that would be a category one offense or 45779
category two offense if committed by an adult. 45780

(f) Felony delinquents who are described in divisions 45781
(A)(13)(a) to (e) of this section, who have been granted a 45782
judicial release to court supervision under division (B) of 45783
section 2152.22 of the Revised Code or a judicial release to the 45784
department of youth services supervision under division (C) of 45785
that section from the commitment to the department of youth 45786
services for the act described in divisions (A)(13)(a) to (e) of 45787
this section, who have violated the terms and conditions of that 45788
release, and who, pursuant to an order of the court of the county 45789
in which the particular felony delinquent was placed on release 45790
that is issued pursuant to division (D) of section 2152.22 of the 45791
Revised Code, have been returned to the department for 45792
institutionalization or institutionalization in a secure facility. 45793

(g) Felony delinquents who have been committed to the custody 45794
of the department of youth services, who have been granted 45795
supervised release from the commitment pursuant to section 5139.51 45796
of the Revised Code, who have violated the terms and conditions of 45797
that supervised release, and who, pursuant to an order of the 45798
court of the county in which the particular child was placed on 45799
supervised release issued pursuant to division (F) of section 45800
5139.52 of the Revised Code, have had the supervised release 45801
revoked and have been returned to the department for 45802
institutionalization. A felony delinquent described in this 45803

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division shall be a public safety bed only for the time during
which the felony delinquent is institutionalized as a result of
the revocation subsequent to the initial thirty-day period of
institutionalization required by division (F) of section 5139.52
of the Revised Code.

(14) "State target youth" means twenty-five per cent of the
projected total number of felony delinquents for each year of a
biennium, factoring in revocations and recommitments.

(15) Unless the context requires a different meaning,
"community corrections facility" means a county or multicounty
rehabilitation center for felony delinquents who have been
committed to the department of youth services and diverted from
care and custody in an institution and placed in the
rehabilitation center pursuant to division (E) of section 5139.36
of the Revised Code.

(16) "Secure facility" means any facility that is designed
and operated to ensure that all of its entrances and exits are
under the exclusive control of its staff and to ensure that,
because of that exclusive control, no child who has been
institutionalized in the facility may leave the facility without
permission or supervision.

(17) "Community residential program" means a program that
satisfies both of the following:

(a) It is housed in a building or other structure that has no
associated major restraining construction, including, but not
limited to, a security fence.

(b) It provides twenty-four-hour care, supervision, and
programs for felony delinquents who are in residence.

(18) "Category one offense" and "category two offense" have
the same meanings as in section 2151.26 of the Revised Code.

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(19) "Disciplinary time" means additional time that the department of youth services requires a felony delinquent to serve in an institution, that delays the person's or felony delinquent's planned release, and that the department imposes upon the person or felony delinquent following the conduct of an internal due process hearing for having committed any of the following acts while committed to the department and in the care and custody of an institution:

(a) An act that if committed by an adult would be a felony;

(b) An act that if committed by an adult would be a misdemeanor;

(c) An act that is not described in division (A)(19)(a) or (b) of this section and that violates an institutional rule of conduct of the department.

(20) "Unruly child" has the same meaning as in section 2151.022 of the Revised Code.

(21) "Revocation" means the act of revoking a child's supervised release for a violation of a term or condition of the child's supervised release in accordance with section 5139.52 of the Revised Code.

(22) "Release authority" means the release authority of the department of youth services that is established by section 5139.50 of the Revised Code.

(23) "Supervised release" means the event of the release of a child under this chapter from an institution and the period after that release during which the child is supervised and assisted by an employee of the department of youth services under specific terms and conditions for reintegration of the child into the community.

(24) "Victim" means the person identified in a police report,

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complaint, or information as the victim of an act that would have
been a criminal offense if committed by an adult and that provided
the basis for adjudication proceedings resulting in a child's
commitment to the legal custody of the department of youth
services.

(25) "Victim's representative" means a member of the victim's
family or another person whom the victim or another authorized
person designates in writing, pursuant to section 5139.56 of the
Revised Code, to represent the victim with respect to proceedings
of the release authority of the department of youth services and
with respect to other matters specified in that section.

(26) "Member of the victim's family" means a spouse, child,
stepchild, sibling, parent, stepparent, grandparent, other
relative, or legal guardian of a child but does not include a
person charged with, convicted of, or adjudicated a delinquent
child for committing a criminal or delinquent act against the
victim or another criminal or delinquent act arising out of the
same conduct, criminal or delinquent episode, or plan as the
criminal or delinquent act committed against the victim.

(27) "Judicial release to court supervision" means a release
of a child from institutional care or institutional care in a
secure facility that is granted by a court pursuant to division
(B) of section 2152.22 of the Revised Code during the period
specified in that division.

(28) "Judicial release to department of youth services
supervision" means a release of a child from institutional care or
institutional care in a secure facility that is granted by a court
pursuant to division (C) of section 2152.22 of the Revised Code
during the period specified in that division.

(29) "Juvenile justice system" includes all of the functions
of the juvenile courts, the department of youth services, any

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public or private agency whose purposes include the prevention of 45895
delinquency or the diversion, adjudication, detention, or 45896
rehabilitation of delinquent children, and any of the functions of 45897
the criminal justice system that are applicable to children. 45898

(30) "Metropolitan county criminal justice services agency" 45899
means an agency that is established pursuant to division (A) of 45900
section 181.54 of the Revised Code. 45901

(31) "Administrative planning district" means a district that 45902
is established pursuant to division (A) or (B) of section 181.56 45903
of the Revised Code. 45904

(32) "Criminal justice coordinating council" means a criminal 45905
justice services agency that is established pursuant to division 45906
(D) of section 181.56 of the Revised Code. 45907

(33) "Comprehensive plan" means a document that coordinates, 45908
evaluates, and otherwise assists, on an annual or multi-year 45909
basis, all of the functions of the juvenile justice systems of the 45910
state or a specified area of the state, that conforms to the 45911
priorities of the state with respect to juvenile justice systems, 45912
and that conforms with the requirements of all federal criminal 45913
justice acts. These functions include, but are not limited to, all 45914
of the following: 45915

(a) Delinquency; 45916

(b) Identification, detection, apprehension, and detention of 45917
persons charged with delinquent acts; 45918

(c) Assistance to crime victims or witnesses, except that the 45919
comprehensive plan does not include the functions of the attorney 45920
general pursuant to sections 109.91 and 109.92 of the Revised 45921
Code; 45922

(d) Adjudication or diversion of persons charged with 45923
delinquent acts; 45924

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(e) Custodial treatment of delinquent children; 45925

(f) Institutional and noninstitutional rehabilitation of 45926
delinquent children. 45927

(B) There is hereby created the department of youth services. 45928
The governor shall appoint the director of the department with the 45929
advice and consent of the senate. The director shall hold office 45930
during the term of the appointing governor but subject to removal 45931
at the pleasure of the governor. Except as otherwise authorized in 45932
section 108.05 of the Revised Code, the director shall devote the 45933
director's entire time to the duties of the director's office and 45934
shall hold no other office or position of trust or profit during 45935
the director's term of office. 45936

The director is the chief executive and administrative 45937
officer of the department and has all the powers of a department 45938
head set forth in Chapter 121. of the Revised Code. The director 45939
may adopt rules for the government of the department, the conduct 45940
of its officers and employees, the performance of its business, 45941
and the custody, use, and preservation of the department's 45942
records, papers, books, documents, and property. The director 45943
shall be an appointing authority within the meaning of Chapter 45944
124. of the Revised Code. Whenever this or any other chapter or 45945
section of the Revised Code imposes a duty on or requires an 45946
action of the department, the duty or action shall be performed by 45947
the director or, upon the director's order, in the name of the 45948
department. 45949

Sec. 5139.11. The department of youth services shall do all 45950
of the following: 45951

(A) Through a program of education, promotion, and 45952
organization, form groups of local citizens and assist these 45953
groups in conducting activities aimed at the prevention and 45954
control of juvenile delinquency, making use of local people and 45955

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resources for the following purposes:	45956
(1) Combatting local conditions known to contribute to juvenile delinquency;	45957 45958
(2) Developing recreational and other programs for youth work;	45959 45960
(3) Providing adult sponsors for delinquent children cases;	45961
(4) Dealing with other related problems of the locality.	45962
(B) Advise local, state, and federal officials, public and private agencies, and lay groups on the needs for and possible methods of the reduction and prevention of juvenile delinquency and the treatment of delinquent children;	45963 45964 45965 45966
(C) Consult with the schools and courts of this state on the development of programs for the reduction and prevention of delinquency and the treatment of delinquents;	45967 45968 45969
(D) Cooperate with other agencies whose services deal with the care and treatment of delinquent children to the end that delinquent children who are state wards may be assisted whenever possible to a successful adjustment outside of institutional care;	45970 45971 45972 45973
(E) Cooperate with other agencies in surveying, developing, and utilizing the recreational resources of a community as a means of combatting the problem of juvenile delinquency and effectuating rehabilitation;	45974 45975 45976 45977
(F) Hold district and state conferences from time to time in order to acquaint the public with current problems of juvenile delinquency and develop a sense of civic responsibility toward the prevention of juvenile delinquency;	45978 45979 45980 45981
(G) Assemble and distribute information relating to juvenile delinquency and report on studies relating to community conditions that affect the problem of juvenile delinquency;	45982 45983 45984

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(H) Assist any community within the state by conducting a comprehensive survey of the community's available public and private resources, and recommend methods of establishing a community program for combatting juvenile delinquency and crime, but no survey of that type shall be conducted unless local individuals and groups request it through their local authorities, and no request of that type shall be interpreted as binding the community to following the recommendations made as a result of the request;

(I) Evaluate the rehabilitation of children committed to the department and prepare and submit periodic reports to the committing court for the following purposes:

(1) Evaluating the effectiveness of institutional treatment;

(2) Making recommendations for judicial release under section 2152.22 of the Revised Code if appropriate and recommending conditions for judicial release;

(3) Reviewing the placement of children and recommending alternative placements where appropriate.

(J) Coordinate dates for hearings to be conducted under section 2152.22 of the Revised Code and assist in the transfer and release of children from institutionalization to the custody of the committing court;

(K)(1) Coordinate and assist juvenile justice systems by doing the following:

(a) Performing juvenile justice system planning in the state, including any planning that is required by any federal law;

(b) Collecting, analyzing, and correlating information and data concerning the juvenile justice system in the state;

(c) Cooperating with and providing technical assistance to state departments, administrative planning districts, metropolitan

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county criminal justice services agencies, criminal justice 46015
coordinating councils, and agencies, offices, and departments of 46016
the juvenile justice system in the state, and other appropriate 46017
organizations and persons; 46018

(d) Encouraging and assisting agencies, offices, and 46019
departments of the juvenile justice system in the state and other 46020
appropriate organizations and persons to solve problems that 46021
relate to the duties of the department; 46022

(e) Administering within the state any juvenile justice acts 46023
and programs that the governor requires the department to 46024
administer; 46025

(f) Implementing the state comprehensive plans; 46026

(g) Auditing grant activities of agencies, offices, 46027
organizations, and persons that are financed in whole or in part 46028
by funds granted through the department; 46029

(h) Monitoring or evaluating the performance of juvenile 46030
justice system projects and programs in the state that are 46031
financed in whole or in part by funds granted through the 46032
department; 46033

(i) Applying for, allocating, disbursing, and accounting for 46034
grants that are made available pursuant to federal juvenile 46035
justice acts, or made available from other federal, state, or 46036
private sources, to improve the criminal and juvenile justice 46037
systems in the state. All money from federal juvenile justice act 46038
grants shall, if the terms under which the money is received 46039
require that the money be deposited into an interest bearing fund 46040
or account, be deposited in the state treasury to the credit of 46041
the federal juvenile justice program purposes fund, which is 46042
hereby created. All investment earnings shall be credited to the 46043
fund. 46044

(j) Contracting with federal, state, and local agencies, 46045

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foundations, corporations, businesses, and persons when necessary 46046
to carry out the duties of the department; 46047

(k) Overseeing the activities of metropolitan county criminal 46048
justice services agencies, administrative planning districts, and 46049
juvenile justice coordinating councils in the state; 46050
46051

(l) Advising the general assembly and governor on legislation 46052
and other significant matters that pertain to the improvement and 46053
reform of the juvenile justice system in the state; 46054
46055

(m) Preparing and recommending legislation to the general 46056
assembly and governor for the improvement of the juvenile justice 46057
system in the state; 46058

(n) Assisting, advising, and making any reports that are 46059
required by the governor, attorney general, or general assembly; 46060

(o) Adopting rules pursuant to Chapter 119. of the Revised 46061
Code. 46062

(2) Division (K)(1) of this section does not limit the 46063
discretion or authority of the attorney general with respect to 46064
crime victim assistance and criminal and juvenile justice 46065
programs. 46066

(3) Nothing in division (K)(1) of this section is intended to 46067
diminish or alter the status of the office of the attorney general 46068
as a criminal justice services agency. 46069

(4) The governor may appoint any advisory committees to 46070
assist the department that the governor considers appropriate or 46071
that are required under any state or federal law. 46072

Section 7. That the existing versions of sections 5139.01 and 46073
5139.11 of the Revised Code that are scheduled to take effect 46074

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January 1, 2002, are hereby repealed. 46075

Section 8. Sections 6 and 7 of this act shall take effect on 46076
January 1, 2002. 46077

Section 9. Except as otherwise provided, all appropriation 46078
items (AI) in this act are appropriated out of any moneys in the 46079
state treasury to the credit of the designated fund that are not 46080
otherwise appropriated. For all appropriations made in this act, 46081
the amounts in the first column are for fiscal year 2002 and the 46082
amounts in the second column are for fiscal year 2003. 46083

46084
FND ALI AI TITLE FY 2002 FY 2003 46085

Section 10. ACC ACCOUNTANCY BOARD OF OHIO 46086

General Services Fund Group 46087

4J8 889-601 CPA Education \$ 204,400 \$ 209,510 46088

Assistance

4K9 889-609 Operating Expenses \$ 870,318 \$ 917,458 46089

TOTAL GSF General Services Fund 46090

Group \$ 1,074,718 \$ 1,126,968 46091

TOTAL ALL BUDGET FUND GROUPS \$ 1,074,718 \$ 1,126,968 46092

Section 11. PAY ACCRUED LEAVE LIABILITY 46094

Accrued Leave Liability Fund Group 46095

806 995-666 Accrued Leave Fund \$ 52,083,178 \$ 56,760,331 46096

807 995-667 Disability Fund \$ 42,843,384 \$ 47,127,722 46097

TOTAL ALF Accrued Leave Liability 46098

Fund Group \$ 94,926,562 \$ 103,888,053 46099

Agency Fund Group 46100

808 995-668 State Employee Health \$ 163,866,236 \$ 187,635,594 46101

Benefit Fund

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809	995-669	Dependent Care	\$	3,050,554	\$	3,355,609	46102
		Spending Account					
810	995-670	Life Insurance	\$	2,109,592	\$	2,236,167	46103
		Investment Fund					
811	995-671	Parental Leave Benefit	\$	4,914,815	\$	6,143,519	46104
		Fund					
TOTAL AGY	Agency Fund Group		\$	173,941,197	\$	199,370,889	46105
TOTAL ALL BUDGET FUND GROUPS			\$	268,867,759	\$	303,258,942	46106

ACCRUED LEAVE LIABILITY FUND 46107

The foregoing appropriation item 995-666, Accrued Leave Fund, 46108
 shall be used to make payments from the Accrued Leave Liability 46109
 Fund (Fund 806), pursuant to section 125.211 of the Revised Code. 46110
 If it is determined by the Director of Budget and Management that 46111
 additional amounts are necessary, the amounts are appropriated. 46112

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 46113

The foregoing appropriation item 995-667, Disability Fund, 46114
 shall be used to make payments from the State Employee Disability 46115
 Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the 46116
 Revised Code. If it is determined by the Director of Budget and 46117
 Management that additional amounts are necessary, the amounts are 46118
 appropriated. 46119

STATE EMPLOYEE HEALTH BENEFIT FUND 46120

The foregoing appropriation item 995-668, State Employee 46121
 Health Benefit Fund, shall be used to make payments from the State 46122
 Employee Health Benefit Fund (Fund 808), pursuant to section 46123
 124.87 of the Revised Code. If it is determined by the Director of 46124
 Budget and Management that additional amounts are necessary, the 46125
 amounts are appropriated. 46126

DEPENDENT CARE SPENDING ACCOUNT 46127

The foregoing appropriation item 995-669, Dependent Care 46128
 Spending Account, shall be used to make payments from the 46129

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Dependent Care Spending Account (Fund 809) to employees eligible
for dependent care expenses. If it is determined by the Director
of Budget and Management that additional amounts are necessary,
the amounts are appropriated.

LIFE INSURANCE INVESTMENT FUND 46134

The foregoing appropriation item 995-670, Life Insurance
Investment Fund, shall be used to make payments from the Life
Insurance Investment Fund (Fund 810) for the costs and expenses of
the state's life insurance benefit program pursuant to section
125.212 of the Revised Code. If it is determined by the Director
of Budget and Management that additional amounts are necessary,
the amounts are appropriated.

PARENTAL LEAVE BENEFIT FUND 46142

The foregoing appropriation item 995-671, Parental Leave
Benefit Fund, shall be used to make payments from the Parental
Leave Benefit Fund (Fund 811) to employees eligible for parental
leave benefits pursuant to section 124.137 of the Revised Code. If
it is determined by the Director of Budget and Management that
additional amounts are necessary, the amounts are appropriated.

Section 12. ADJ ADJUTANT GENERAL 46149

General Revenue Fund 46150

GRF 745-401	Ohio Military Reserve	\$	14,901	\$	15,200	46151
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GRF 745-403	Armory Deferred	\$	250,000	\$	250,000	46152
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Maintenance

GRF 745-404	Air National Guard	\$	1,845,527	\$	1,921,854	46153
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GRF 745-409	Central Administration	\$	3,975,185	\$	4,222,598	46154
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GRF 745-499	Army National Guard	\$	3,878,881	\$	3,988,519	46155
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GRF 745-502	Ohio National Guard	\$	106,980	\$	103,058	46156
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Unit Fund

TOTAL GRF General Revenue Fund	\$	10,071,474		10,501,229	46157
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General Services Fund Group				46158
534 745-612 Armory Improvements	\$	529,014	\$ 534,304	46159
536 745-620 Camp Perry Clubhouse	\$	1,054,359	\$ 1,094,970	46160
and Rental				
537 745-604 ONG Maintenance	\$	214,464	\$ 219,826	46161
TOTAL GSF General Services Fund	\$	1,797,837	\$ 1,849,100	46162
Group				
Federal Special Revenue Fund Group				46163
3E8 745-628 Air National Guard	\$	11,821,084	\$ 12,770,931	46164
Operations and				
Maintenance Agreement				
3R8 745-603 Counter Drug	\$	25,000	\$ 25,000	46165
Operations				
3S0 745-602 Higher Ground Training	\$	20,000	\$ 20,000	46166
341 745-615 Air National Guard	\$	1,770,744	\$ 1,841,573	46167
Base Security				
342 745-616 Army National Guard	\$	6,429,352	\$ 6,749,210	46168
Service Agreement				
TOTAL FED Federal Special Revenue	\$	20,066,180	\$ 21,406,714	46169
Fund Group				
State Special Revenue Fund Group				46170
528 745-605 Marksmanship	\$	64,466	\$ 66,078	46171
Activities				
TOTAL SSR State Special Revenue	\$	64,466	\$ 66,078	46172
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	31,999,957	\$ 33,823,121	46173
ARMY NATIONAL GUARD SERVICE AGREEMENT AND ARMY NATIONAL GUARD				46174
TRAINING SITE AGREEMENT				46175
On July 1, 2001, or as soon thereafter as possible, the				46176
Adjutant General shall certify to the Director of Budget and				46177
Management the cash balance in Fund 343, Army National Guard				46178
Training Site Agreement. The Director of Budget and Management				46179

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shall transfer the certified amount from Fund 343 to Fund 342,
 Army National Guard Service Agreement. Any existing encumbrances
 in appropriation item 745-619, Army National Guard Training Site
 Agreement (Fund 343), shall be canceled and reestablished against
 appropriation item 745-616, Army National Guard Service Agreement
 (Fund 342). The amounts of the reestablished encumbrances are
 appropriated, and Fund 343 is abolished.

Section 13. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

General Revenue Fund					46188
GRF 100-402 Unemployment	\$	107,713	\$	109,114	46189
Compensation					
GRF 100-405 Agency Audit Expenses	\$	662,147	\$	614,704	46190
GRF 100-406 County & University	\$	850,133	\$	838,777	46191
Human Resources					
Services					
GRF 100-409 Departmental	\$	948,332	\$	975,481	46192
Information Services					
GRF 100-410 Veterans' Records	\$	480,000	\$	480,000	46193
Conversion					
GRF 100-414 Ohio Geographically	\$	512,410	\$	510,807	46194
Referenced Information					
Program					
GRF 100-416 Strategic Technology	\$	3,470,440	\$	5,000,000	46195
Development Programs					
GRF 100-417 MARCS	\$	5,350,344	\$	6,176,160	46196
GRF 100-419 Ohio SONET	\$	4,527,924	\$	4,625,879	46197
GRF 100-420 Innovation Ohio	\$	144,000	\$	144,000	46198
GRF 100-421 ERP Project	\$	600,000	\$	624,000	46199
Implementation					
GRF 100-433 State of Ohio Computer	\$	5,003,580	\$	5,027,234	46200
Center					
GRF 100-439 Equal Opportunity	\$	817,894	\$	861,093	46201

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		Certification Programs					
GRF	100-447	OBA - Building Rent Payments	\$	100,075,600	\$	119,923,600	46202
GRF	100-448	OBA - Building Operating Payments	\$	26,098,000	\$	26,098,000	46203
GRF	100-449	DAS - Building Operating Payments	\$	5,126,955	\$	5,126,968	46204
GRF	100-451	Minority Affairs	\$	119,706	\$	118,043	46205
GRF	100-734	Major Maintenance	\$	70,224	\$	68,376	46206
GRF	102-321	Construction Compliance	\$	1,392,590	\$	1,396,506	46207
GRF	130-321	State Agency Support Services	\$	3,632,427	\$	3,740,888	46208
TOTAL	GRF	General Revenue Fund	\$	159,990,419	\$	182,459,630	46209
General Services Fund Group							46210
112	100-616	DAS Administration	\$	5,243,105	\$	5,503,547	46211
115	100-632	Central Service Agency	\$	399,438	\$	376,844	46212
117	100-644	General Services Division - Operating	\$	5,790,000	\$	7,091,000	46213
122	100-637	Fleet Management	\$	1,600,913	\$	1,652,189	46214
125	100-622	Human Resources Division - Operating	\$	23,895,125	\$	24,640,311	46215
127	100-627	Vehicle Liability Insurance	\$	3,373,835	\$	3,487,366	46216
128	100-620	Collective Bargaining	\$	3,292,859	\$	3,410,952	46217
130	100-606	Risk Management Reserve	\$	185,900	\$	197,904	46218
131	100-639	State Architect's Office	\$	7,504,787	\$	7,772,789	46219
132	100-631	DAS Building Management	\$	10,887,913	\$	11,362,872	46220
188	100-649	Equal Opportunity Programs	\$	1,214,691	\$	1,253,311	46221

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201	100-653	General Services	\$	1,779,000	\$	1,833,000	46222
		Resale Merchandise					
210	100-612	State Printing	\$	6,648,503	\$	6,928,823	46223
4H2	100-604	Governor's Residence	\$	22,628	\$	23,194	46224
		Gift					
4P3	100-603	Departmental MIS	\$	7,447,713	\$	7,761,365	46225
		Services					
427	100-602	Investment Recovery	\$	4,204,735	\$	4,179,184	46226
5C2	100-605	MARCS Development	\$	3,429,947	\$	4,475,190	46227
5C3	100-608	Skilled Trades	\$	2,237,200	\$	2,332,464	46228
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000	46229
5L7	100-610	Professional	\$	2,700,000	\$	2,700,000	46230
		Development					
TOTAL GSF General Services Fund							46231
Group			\$	103,858,292	\$	108,982,305	46232
Intragovernmental Service Fund Group							46233
133	100-607	Information Technology	\$	104,482,097	\$	111,387,436	46234
		Fund					
4N6	100-617	Major Computer	\$	12,000,000	\$	4,500,000	46235
		Purchases					
TOTAL ISF Intragovernmental							46236
Service Fund Group			\$	116,482,097	\$	115,887,436	46237
Agency Fund Group							46238
113	100-628	Unemployment	\$	3,500,000	\$	3,577,000	46239
		Compensation					
124	100-629	Payroll Deductions	\$	1,877,100,000	\$	1,999,100,000	46240
TOTAL AGY Agency Fund Group			\$	1,880,600,000	\$	2,002,677,000	46241
Holding Account Redistribution Fund Group							46242
R08	100-646	General Services	\$	20,000	\$	20,000	46243
		Refunds					
TOTAL 090 Holding Account							46244
Redistribution Fund Group			\$	20,000	\$	20,000	46245

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appropriations are the source of funds pledged for bond service 46277
charges on obligations issued pursuant to Chapter 152. of the 46278
Revised Code. 46279

The payments to the Ohio Building Authority are for the 46280
purpose of paying the expenses of agencies that occupy space in 46281
the various state facilities. The Department of Administrative 46282
Services may enter into leases and agreements with the Ohio 46283
Building Authority providing for the payment of these expenses. 46284
The Ohio Building Authority shall report to the Department of 46285
Administrative Services and the Office of Budget and Management 46286
not later than five months after the start of a fiscal year the 46287
actual expenses incurred by the Ohio Building Authority in 46288
operating the facilities and any balances remaining from payments 46289
and rentals received in the prior fiscal year. The Department of 46290
Administrative Services shall reduce subsequent payments by the 46291
amount of the balance reported to it by the Ohio Building 46292
Authority. 46293

Section 13.03. DAS - BUILDING OPERATING PAYMENTS 46294

The foregoing appropriation item 100-449, DAS - Building 46295
Operating Payments, shall be used to pay the rent expenses of 46296
veterans organizations pursuant to section 123.024 of the Revised 46297
Code in fiscal years 2002 and 2003. 46298

The foregoing appropriation item, 100-449, DAS - Building 46299
Operating Payments, may be used to provide funding for the cost of 46300
property appraisals that the Department of Administrative Services 46301
may be required to obtain for property that is being sold by the 46302
state or property under consideration to be purchased by the 46303
state. 46304

Of the foregoing appropriation item 100-449, DAS - Building 46305
Operating Payment, \$100,000 shall be used in fiscal year 2002 to 46306
fund the renovation of new office space for the State Library and 46307

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the Ohioana Library Association. 46308

Notwithstanding section 125.28 of the Revised Code, the 46309
remaining portion of the appropriation may be used to pay the 46310
operating expenses of state facilities maintained by the 46311
Department of Administrative Services that are not billed to 46312
building tenants. These expenses may include, but are not limited 46313
to, the costs for vacant space and space undergoing renovation, 46314
and the rent expenses of tenants that are relocated due to 46315
building renovations. These payments shall be processed by the 46316
Department of Administrative Services through intrastate transfer 46317
vouchers and placed in the Facilities Management Fund (Fund 132). 46318

Section 13.04. MINORITY AFFAIRS 46319

The foregoing appropriation item 100-451, Minority Affairs, 46320
shall be used to establish minority affairs programs within the 46321
Equal Opportunity Division. The office shall provide an access 46322
point and official representation to multi-cultural communities; 46323
research and reports on multi-cultural issues; and educational, 46324
governmental, and other services that foster multi-cultural 46325
opportunities and understanding in the state of Ohio. 46326

Section 13.05. CENTRAL SERVICE AGENCY FUND 46327

In order to complete the migration of the licensing 46328
applications of the professional licensing boards to a local area 46329
network, the Director of Budget and Management may, at the request 46330
of the Director of Administrative Services, cancel related 46331
encumbrances in the Central Service Agency Fund (Fund 115) and 46332
reestablish these encumbrances in fiscal year 2002 for the same 46333
purpose and to the same vendor. The Director of Budget and 46334
Management shall reduce the appropriation balance in fiscal year 46335
2001 by the amount of encumbrances canceled in Fund 115. As 46336
determined by the Director of Budget and Management, the amount 46337

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necessary to reestablish such encumbrances or parts of 46338
encumbrances in fiscal year 2002 in the Central Service Agency 46339
Fund (Fund 115) is appropriated. 46340

The Director of Budget and Management may transfer up to 46341
\$399,000 in fiscal year 2002 and up to \$354,000 in fiscal year 46342
2003 from the Occupational Licensing and Regulatory Fund (Fund 46343
4K9) to the Central Service Agency Fund (Fund 115). The Director 46344
of Budget and Management may transfer up to \$34,000 in fiscal year 46345
2002 and up to \$30,000 in fiscal year 2003 from the State Medical 46346
Board Operating Fund (Fund 5C6) to the Central Service Agency Fund 46347
(Fund 115). The Director of Budget and Management may transfer up 46348
to \$18,000 in fiscal year 2002 and up to \$16,000 in fiscal year 46349
2003 from the Pharmacy Board Operating Fund (Fund 5N2) to the 46350
Central Service Agency Fund (Fund 115). The appropriation item 46351
100-632, Central Service Agency, shall be used to purchase the 46352
necessary equipment, products, and services to install and 46353
maintain a local area network for the professional licensing 46354
boards, and to support their licensing applications. The amount of 46355
the cash transfer is appropriated to appropriation item 100-632, 46356
Central Service Agency. 46357

Section 13.06. TUITION REIMBURSEMENT 46358

Of the foregoing appropriation item 100-622, Human Resources 46359
Division - Operating, \$350,000 in fiscal year 2002 and \$400,000 in 46360
fiscal year 2003 shall be set aside for the District 1199 Health 46361
Care Employees Tuition Reimbursement Program, per existing 46362
collective bargaining agreements. Of the foregoing appropriation 46363
item 100-622, Human Resources Division - Operating, \$75,000 in 46364
fiscal year 2002 and \$75,000 in fiscal year 2003 shall be set 46365
aside for the Ohio Education Association Tuition Reimbursement 46366
Program, per existing collective bargaining agreements. The 46367
Department of Administrative Services, with the approval of the 46368

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Director of Budget and Management, shall establish charges for
recovering the costs of administering the District 1199 Health
Care Employees Tuition Reimbursement Program and the Ohio
Education Association Tuition Reimbursement Program. Receipts for
these charges shall be deposited into the Human Resources Services
Fund (Fund 125).

Section 13.07. COLLECTIVE BARGAINING ARBITRATION EXPENSES

With approval of the Director of Budget and Management, the
Department of Administrative Services may seek reimbursement from
state agencies for the actual costs and expenses the department
incurs in the collective bargaining arbitration process. The
reimbursements shall be processed through intrastate transfer
vouchers and placed in the Collective Bargaining Fund (Fund 128).

Section 13.08. EQUAL OPPORTUNITY PROGRAM

The Department of Administrative Services, with the approval
of the Director of Budget and Management, shall establish charges
for recovering the costs of administering the activities supported
by the Equal Opportunity Programs Fund (Fund 188). These charges
shall be deposited to the credit of the Equal Opportunity Programs
Fund (Fund 188) upon payment made by state agencies,
state-supported or state-assisted institutions of higher
education, and tax-supported agencies, municipal corporations, and
other political subdivisions of the state, for services rendered.

Section 13.09. MERCHANDISE FOR RESALE

The foregoing appropriation item 100-653, General Services
Resale Merchandise, shall be used to account for merchandise for
resale, which is administered by the General Services Division.
Deposits to the fund may comprise the cost of merchandise for
resale and shipping fees.

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Section 13.10. GOVERNOR'S RESIDENCE GIFT 46398

The foregoing appropriation item 100-604, Governor's 46399
Residence Gift, shall be used to provide part or all of the 46400
funding related to construction, goods, or services for the 46401
Governor's residence. All receipts for this purpose shall be 46402
deposited into Fund 4H2. 46403

Section 13.11. DEPARTMENTAL MIS 46404

The foregoing appropriation item 100-603, Departmental MIS 46405
Services, may be used to pay operating expenses of management 46406
information systems activities in the Department of Administrative 46407
Services. The Department of Administrative Services shall 46408
establish charges for recovering the costs of management 46409
information systems activities. These charges shall be deposited 46410
to the credit of the Departmental MIS Fund (Fund 4P3). 46411

Notwithstanding any other language to the contrary, the 46412
Director of Budget and Management may transfer up to \$3,000,000 of 46413
fiscal year 2002 appropriations and up to \$3,000,000 of fiscal 46414
year 2003 appropriations from appropriation item 100-603, 46415
Departmental MIS Services, to any Department of Administrative 46416
Services non-General Revenue Fund appropriation item. The 46417
appropriations transferred shall be used to make payments for 46418
management information systems services. Notwithstanding any other 46419
language to the contrary, the Director of Budget and Management 46420
may transfer up to \$217,313 of fiscal year 2002 appropriations and 46421
up to \$193,031 of fiscal year 2003 appropriations from 46422
appropriation item 100-409, Departmental Information Services, to 46423
any Department of Administrative Services appropriation item in 46424
the General Revenue Fund. The appropriations transferred shall be 46425
used to make payments for management information systems services. 46426
46427

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Section 13.12. INVESTMENT RECOVERY FUND 46428

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the Federal Surplus Operating Program created in sections 125.84 to 125.90 of the Revised Code.

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the State Property Inventory and Fixed Assets Management System Program.

Of the foregoing appropriation item 100-602, Investment Recovery, up to \$2,045,302 in fiscal year 2002 and up to \$1,959,192 in fiscal year 2003 shall be used to pay the operating expenses of the State Surplus Property Program, the Surplus Federal Property Program, and the State Property Inventory and Fixed Assets Management System Program pursuant to Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code.

Of the foregoing appropriation item 100-602, Investment Recovery, \$2,045,302 in fiscal year 2002 and \$1,959,192 in fiscal year 2003 shall be used to transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds pursuant to division (A)(2) of section 125.14 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriations are necessary for the transfer of such sale proceeds, the Director of Administrative Services may request the Director of Budget and Management to increase the amounts. Such amounts are appropriated.

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Notwithstanding division (B) of section 125.14 of the Revised Code, the Director of Budget and Management, at the request of the Director of Administrative Services, shall transfer up to \$2,500,000 of the amounts held for transfer to the General Revenue Fund from the Investment Recovery Fund (Fund 427) to the General Services Fund (Fund 117) during the biennium beginning July 1, 2001, and ending June 30, 2003. The cash transferred to the General Services Fund shall be used to pay the operating expenses of the Competitive Sealed Proposal Program.

Section 13.13. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM

Notwithstanding division (B)(3) of section 4505.09 of the Revised Code, the Director of Budget and Management, at the request of the Director of Administrative Services, may transfer up to \$3,429,947 in fiscal year 2002 and \$4,475,190 in fiscal year 2003 from the Automated Title Processing System (Fund 849) to the Multi-Agency Radio Communications Systems Fund (Fund 5C2). The cash transferred to the Multi-Agency Radio Communications Systems Fund shall be used for the development of the MARCS system.

Effective with the implementation of the Multi-Agency Radio Communications System, the Director of Administrative Services shall collect user fees from participants in the system. The Director of Administrative Services, with the advice of the Multi-Agency Radio Communications System Steering Committee and the Director of Budget and Management, shall determine the amount of the fees and the manner by which the fees shall be collected. Such user charges shall comply with the applicable cost principles issued by the federal Office of Management and Budget. All moneys from user charges and fees shall be deposited in the state treasury to the credit of the Multi-Agency Radio Communications System Administration Fund (Fund 5C2).

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Section 13.14. WORKFORCE DEVELOPMENT FUND 46489

There is hereby established in the state treasury the 46490
Workforce Development Fund (Fund 5D7). The foregoing appropriation 46491
item 100-621, Workforce Development, shall be used to make 46492
payments from the fund. The fund shall be under the supervision of 46493
the Department of Administrative Services, which may adopt rules 46494
with regard to administration of the fund. The fund shall be used 46495
to pay the costs of the Workforce Development Program established 46496
by Article 37 of the contract between the State of Ohio and 46497
OCSEA/AFSCME, Local 11, effective March 1, 2000. The program shall 46498
be administered in accordance with the contract. Revenues shall 46499
accrue to the fund as specified in the contract. The fund may be 46500
used to pay direct and indirect costs of the program that are 46501
attributable to staff, consultants, and service providers. All 46502
income derived from the investment of the fund shall accrue to the 46503
fund. 46504

If it is determined by the Director of Administrative 46505
Services that additional appropriation amounts are necessary, the 46506
Director of Administrative Services may request that the Director 46507
of Budget and Management increase such amounts. Such amounts are 46508
appropriated. 46509

Section 13.15. PROFESSIONAL DEVELOPMENT FUND 46510

The foregoing appropriation item 100-610, Professional 46511
Development, shall be used to make payments from the Professional 46512
Development Fund (Fund 5L7) pursuant to section 124.182 of the 46513
Revised Code. 46514

Section 13.16. COMPUTER EQUIPMENT PURCHASES 46515

The Director of Administrative Services shall compute the 46516
amount of revenue attributable to the amortization of all 46517

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equipment purchases from appropriation item 100-607, Information
Technology Fund; appropriation item 100-617, Major Computer
Purchases; and appropriation item CAP-837, Major Equipment
Purchases, which is recovered by the Department of Administrative
Services as part of the rates charged by the Information
Technology Fund (Fund 133) created in section 125.15 of the
Revised Code. The Director of Budget and Management may transfer
cash in an amount not to exceed the amount of amortization
computed from the Information Technology Fund (Fund 133) to Major
Computer Purchases (Fund 4N6).

Section 13.17. INFORMATION TECHNOLOGY ASSESSMENT

The Director of Administrative Services, with the approval of
the Director of Budget and Management, may establish an
information technology assessment for the purpose of recovering
the cost of selected infrastructure development and statewide
programs. Such assessment shall comply with applicable cost
principles issued by the federal Office of Management and Budget.
During the fiscal year 2001-2003 biennium, the information
technology assessment may be used to partially fund the cost of
electronic-government infrastructure. The information technology
assessment shall be charged to all organized bodies, offices, or
agencies established by the laws of the state for the exercise of
any function of state government except for the General Assembly,
any legislative agency, the Supreme Court, the other courts of
record in Ohio, or any judicial agency, the Adjutant General, the
Bureau of Workers' Compensation, and institutions administered by
a board of trustees. Any state-entity exempted by this section may
utilize the infrastructure or statewide program by participating
in the information technology assessment. All charges for the
information technology assessment shall be deposited to the credit
of the Information Technology Fund (Fund 133) created in section
125.15 of the Revised Code.

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Section 13.18. E-GOVERNMENT DEVELOPMENT FUND 46550

The Director of Budget and Management shall transfer any cash 46551
balances remaining in the E-Government Development Fund (Fund 5M6) 46552
after November 30, 2001, from the E-Government Development Fund to 46553
the Information Technology Fund (Fund 133) created in section 46554
125.15 of the Revised Code. 46555

Section 13.19. UNEMPLOYMENT COMPENSATION FUND 46556

The foregoing appropriation item 100-628, Unemployment 46557
Compensation, shall be used to make payments from the Unemployment 46558
Compensation Fund (Fund 113), pursuant to section 4141.241 of the 46559
Revised Code. If it is determined that additional amounts are 46560
necessary, such amounts are appropriated. 46561

Section 13.20. PAYROLL WITHHOLDING FUND 46562

The foregoing appropriation item 100-629, Payroll Deductions, 46563
shall be used to make payments from the Payroll Withholding Fund 46564
(Fund 124). If it is determined by the Director of Budget and 46565
Management that additional appropriation amounts are necessary, 46566
such amounts are appropriated. 46567

Section 13.21. GENERAL SERVICES REFUNDS 46568

The foregoing appropriation item 100-646, General Services 46569
Refunds, shall be used to hold bid guarantee and building plans 46570
and specifications deposits until they are refunded. The Director 46571
of Administrative Services may request that the Director of Budget 46572
and Management transfer cash received for the costs of providing 46573
the building plans and specifications to contractors from the 46574
General Services Refund Fund to Fund 131, State Architect's 46575
Office. Prior to the transfer of cash, the Director of 46576
Administrative Services shall certify that such amounts are in 46577

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excess of amounts required for refunding deposits and are directly 46578
related to costs of producing building plans and specifications. 46579
If it is determined that additional appropriations are necessary, 46580
such amounts are appropriated. 46581

Section 13.22. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT 46582
SERVICE PAYMENTS 46583

The Director of Administrative Services, in consultation with 46584
the Multi-Agency Radio Communication System (MARCS) Steering 46585
Committee and the Director of Budget and Management, shall 46586
determine the share of debt service payments attributable to 46587
spending for MARCS components that are not specific to any one 46588
agency and that shall be charged to agencies supported by the 46589
motor fuel tax. Such share of debt service payments shall be 46590
calculated for MARCS capital disbursements made beginning July 1, 46591
1997. Within thirty days of any payment made from appropriation 46592
item 100-447, OBA - Building Rent Payments, the Director of 46593
Administrative Services shall certify to the Director of Budget 46594
and Management the amount of this share. The Director of Budget 46595
and Management shall transfer such amounts to the General Revenue 46596
Fund from the Highway Operating Fund (Fund 002) established in 46597
section 5735.281 of the Revised Code. 46598

Section 13.23. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY 46599

Whenever the Director of Administrative Services declares a 46600
"Public Exigency," as provided in division (C) of section 123.15 46601
of the Revised Code, the Director shall also notify the members of 46602
the Controlling Board. 46603

Section 13.24. GENERAL SERVICE CHARGES 46604

The Department of Administrative Services, with the approval 46605
of the Director of Budget and Management, shall establish charges 46606

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for recovering the costs of administering the programs in the 46607
 General Services Fund (Fund 117) and the State Printing Fund (Fund 46608
 210). 46609

Section 14. AAM COMMISSION ON AFRICAN AMERICAN MALES 46610

General Revenue Fund 46611

GRF 036-100 Personal Services \$ 254,538 \$ 267,265 46612

GRF 036-200 Maintenance \$ 47,500 \$ 47,175 46613

GRF 036-300 Equipment \$ 19,000 \$ 18,870 46614

GRF 036-501 CAAM Awards and \$ 15,200 \$ 15,096 46615

Scholarships

GRF 036-502 Community Projects \$ 38,000 \$ 27,750 46616

TOTAL GRF General Revenue Fund \$ 374,238 \$ 376,156 46617

State Special Revenue Fund Group 46618

4H3 036-601 Commission on African \$ 10,000 \$ 10,000 46619

American Males -

Gifts/Grants

TOTAL SSR State Special Revenue \$ 10,000 \$ 10,000 46620

Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 384,238 \$ 386,156 46621

COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW 46622

No later than December 31, 2001, the Commission on African 46623
 American Males shall submit to the chairperson and ranking 46624
 minority member of the Human Services Subcommittee of the Finance 46625
 and Appropriations Committee of the House of Representatives a 46626
 report that demonstrates the progress that has been made toward 46627
 meeting the Commission's mission statement. 46628

Section 15. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW 46629

General Revenue Fund 46630

GRF 029-321 Operating Expenses \$ 365,881 \$ 365,881 46631

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TOTAL GRF General Revenue Fund	\$	365,881	\$	365,881	46632
TOTAL ALL BUDGET FUND GROUPS	\$	365,881	\$	365,881	46633
OPERATING					46634
The Chief Administrative Officer of the House of					46635
Representatives and the Clerk of the Senate shall determine, by					46636
mutual agreement, which of them shall act as fiscal agent for the					46637
Joint Committee on Agency Rule Review.					46638
Section 16. AGE DEPARTMENT OF AGING					46639
General Revenue Fund					46640
GRF 490-321 Operating Expenses	\$	2,798,946	\$	2,798,946	46641
GRF 490-403 PASSPORT	\$	61,867,800	\$	63,840,739	46642
GRF 490-404 Eldercare	\$	98,000	\$	78,400	46643
GRF 490-405 Golden Buckeye Card	\$	377,560	\$	377,560	46644
GRF 490-406 Senior Olympics	\$	39,862	\$	39,862	46645
GRF 490-407 Long-Term Care	\$	622,799	\$	622,799	46646
Consumer Guide					
GRF 490-409 Ohio Community Service	\$	311,640	\$	311,640	46647
Council Operations					
GRF 490-410 Long-Term Care	\$	1,412,058	\$	1,412,058	46648
Ombudsman					
GRF 490-411 Senior Community	\$	13,684,750	\$	13,684,750	46649
Services					
GRF 490-412 Residential State	\$	12,534,591	\$	12,290,915	46650
Supplement					
GRF 490-414 Alzheimers Respite	\$	4,436,673	\$	4,436,673	46651
GRF 490-416 Transportation For	\$	183,000	\$	183,000	46652
Elderly					
GRF 490-499 Senior Employment	\$	15,574	\$	15,574	46653
Program					
GRF 490-504 Senior Facilities	\$	230,000	\$	200,000	46654
GRF 490-506 Senior Volunteers	\$	491,614	\$	496,580	46655
TOTAL GRF General Revenue Fund	\$	99,104,867	\$	100,789,496	46656

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General Services Fund Group					46657
480 490-606 Senior Citizens	\$	363,587	\$	372,677	46658
Services Special					
Events					
TOTAL GSF General Services Fund					46659
Group	\$	363,587	\$	372,677	46660
Federal Special Revenue Fund Group					46661
3C4 490-607 PASSPORT	\$	129,645,833	\$	144,875,065	46662
3M3 490-611 Federal Aging	\$	22,943,588	\$	23,517,178	46663
Nutrition					
3M4 490-612 Federal Supportive	\$	21,025,940	\$	21,545,338	46664
Services					
3R7 490-617 Ohio Community Service	\$	7,350,920	\$	7,350,920	46665
Council Programs					
322 490-618 Older Americans	\$	10,873,661	\$	11,144,778	46666
Support Services					
TOTAL FED Federal Special Revenue					46667
Fund Group	\$	191,839,942	\$	208,433,279	46668
State Special Revenue Fund Group					46669
4C4 490-609 Regional Long-Term	\$	440,185	\$	451,190	46670
Care Ombudsman Program					
4J4 490-610 PASSPORT/Residential	\$	24,000,000	\$	24,000,000	46671
State Supplement					
4U9 490-602 PASSPORT Fund	\$	5,000,000	\$	5,000,000	46672
5K9 490-613 Nursing Home Consumer	\$	400,000	\$	400,000	46673
Guide					
624 490-604 OCSC Community Support	\$	2,500	\$	2,500	46674
TOTAL SSR State Special Revenue					46675
Fund Group	\$	29,842,685	\$	29,853,690	46676
TOTAL ALL BUDGET FUND GROUPS	\$	321,151,081	\$	339,449,142	46677
Section 16.01. PRE-ADMISSION REVIEW FOR NURSING FACILITY					46679

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ADMISSION 46680

Pursuant to sections 5101.751 and 5101.754 of the Revised 46681
Code and an interagency agreement, the Department of Job and 46682
Family Services shall designate the Department of Aging to perform 46683
assessments under sections 5101.75 and 5111.204 of the Revised 46684
Code. Of the foregoing appropriation item 490-403, PASSPORT, the 46685
Department of Aging may use not more than \$2,390,300 in fiscal 46686
year 2002 and \$2,450,058 in fiscal year 2003 to perform the 46687
assessments for persons not eligible for Medicaid in accordance 46688
with the department's interagency agreement with the Department of 46689
Job and Family Services and to assist individuals in planning for 46690
their long-term health care needs. 46691

Section 16.02. PASSPORT 46692

Appropriation item 490-403, PASSPORT, and the amounts set 46693
aside for the PASSPORT Waiver Program in appropriation item 46694
490-610, PASSPORT/Residential State Supplement, may be used to 46695
assess clients regardless of Medicaid eligibility. 46696

The Director of Aging shall adopt rules under section 111.15 46697
of the Revised Code governing the nonwaiver funded PASSPORT 46698
program, including client eligibility. 46699

The Department of Aging shall administer the Medicaid Waiver 46700
funded PASSPORT Home Care program as delegated by the Department 46701
of Job and Family Services in an interagency agreement. The 46702
foregoing appropriation item 490-403, PASSPORT, and the amounts 46703
set aside for the PASSPORT Waiver Program in appropriation item 46704
490-610, PASSPORT/Residential State Supplement, shall be used to 46705
provide the required state match for federal Medicaid funds 46706
supporting the Medicaid Waiver funded PASSPORT Home Care program. 46707
Appropriation item 490-403, PASSPORT, and the amounts set aside 46708
for the PASSPORT Waiver Program in appropriation item 490-610, 46709

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PASSPORT/Residential State Supplement, may also be used to support 46710
the Department of Aging's administrative costs associated with 46711
operating the PASSPORT program. 46712

The foregoing appropriation item 490-607, PASSPORT, shall be 46713
used to provide the federal matching share for all PASSPORT 46714
program costs determined by the Department of Job and Family 46715
Services to be eligible for Medicaid reimbursement. 46716

ELDERCARE PILOT 46717

The foregoing appropriation item 490-404, Eldercare, shall be 46718
used to fund the existing eldercare service programs and shall be 46719
limited to providing services to those persons who are enrolled in 46720
these programs on the effective date of this section. 46721

SENIOR COMMUNITY SERVICES 46722

The foregoing appropriation item 490-411, Senior Community 46723
Services, shall be used for services designated by the Department 46724
of Aging, including, but not limited to, home-delivered meals, 46725
transportation services, personal care services, respite services, 46726
home repair, and care coordination. Service priority shall be 46727
given to low income, frail, and cognitively impaired persons 60 46728
years of age and over. The department shall promote cost sharing 46729
by service recipients for those services funded with block grant 46730
funds, including, where possible, sliding-fee scale payment 46731
systems based on the income of service recipients. 46732

ALZHEIMERS RESPITE 46733

The foregoing appropriation item 490-414, Alzheimers Respite, 46734
shall be used only to fund Alzheimer's disease services under 46735
section 173.04 of the Revised Code. 46736

TRANSPORTATION FOR ELDERLY 46737

The foregoing appropriation item 490-416, Transportation for 46738
Elderly, shall be used for non-capital expenses related to 46739

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transportation services for the elderly that provide access to
such things as healthcare services, congregate meals,
socialization programs, and grocery shopping. The appropriation
shall be allocated to the following agencies:

(A) \$45,000 per fiscal year to the Cincinnati Jewish
Vocational Services;

(B) \$45,000 per fiscal year to the Cleveland Jewish Community
Center;

(C) \$45,000 per fiscal year to the Columbus Jewish
Federation;

(D) \$20,000 per fiscal year to the Dayton Jewish Family
Services;

(E) \$10,000 per fiscal year to the Akron Jewish Community
Center;

(F) \$5,000 per fiscal year to the Youngstown Jewish
Federation;

(G) \$3,000 per fiscal year to the Canton Jewish Federation;

(H) \$10,000 per fiscal year to the Toledo Jewish Federation.

Agencies receiving funding from appropriation item 490-XXX,
Transportation for Elderly, shall coordinate services with other
local service agencies.

RESIDENTIAL STATE SUPPLEMENT

Under the Residential State Supplement Program, the amount
used to determine whether a resident is eligible for payment and
for determining the amount per month the eligible resident will
receive shall be as follows:

(A) \$900 for a residential care facility, as defined in
section 3721.01 of the Revised Code;

(B) \$900 for an adult group home, as defined in Chapter 3722.

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of the Revised Code; 46769

(C) \$800 for an adult foster home, as defined in Chapter 173. 46770
of the Revised Code; 46771

(D) \$800 for an adult family home, as defined in Chapter 46772
3722. of the Revised Code; 46773

(E) \$800 for an adult community alternative home, as defined 46774
in Chapter 3724. of the Revised Code; 46775

(F) \$800 for an adult residential facility, as defined in 46776
Chapter 5119. of the Revised Code; 46777

(G) \$600 for adult community mental health housing services, 46778
as defined in division (B)(5) of section 173.35 of the Revised 46779
Code. 46780

The Departments of Aging and Job and Family Services shall 46781
reflect this amount in any applicable rules the departments adopt 46782
under section 173.35 of the Revised Code. 46783

TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS 46784

The Department of Aging may transfer cash by intrastate 46785
transfer vouchers from the foregoing appropriation items 490-412, 46786
Residential State Supplement, and 490-610, PASSPORT/Residential 46787
State Supplement, to the Department of Job and Family Services' 46788
Fund 4J5, Home and Community-Based Services for the Aged Fund. The 46789
funds shall be used to make benefit payments to Residential State 46790
Supplement recipients. 46791

LONG-TERM CARE OMBUDSMAN 46792

The foregoing appropriation item 490-410, Long-Term Care 46793
Ombudsman, shall be used for a program to fund ombudsman program 46794
activities in nursing homes, adult care facilities, boarding 46795
homes, and home and community care services. 46796

SENIOR FACILITIES 46797

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Of the foregoing appropriation item 490-504, Senior 46798
Facilities, in fiscal year 2002, \$10,000 shall be for the Tri-city 46799
Senior Center, \$10,000 shall be for the Westlake Senior Center, 46800
and \$10,000 shall be for the Rocky River Senior Center. 46801

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAMS 46802

The foregoing appropriation item 490-609, Regional Long-Term 46803
Care Ombudsman Programs, shall be used solely to pay the costs of 46804
operating the regional long-term care ombudsman programs. 46805

PASSPORT/RESIDENTIAL STATE SUPPLEMENT 46806

Of the foregoing appropriation item 490-610, 46807
PASSPORT/Residential State Supplement, up to \$2,835,000 each 46808
fiscal year shall be used to fund the Residential State Supplement 46809
Program. The remaining available funds shall be used to fund the 46810
PASSPORT program. 46811

Section 16.03. RESIDENTIAL STATE SUPPLEMENT 46812

If the Department of Aging, in consultation with the Director 46813
of Budget and Management, determines that available funding is 46814
insufficient to make payments to all eligible individuals, the 46815
department may establish priority policies to further limit 46816
eligibility criteria. 46817

TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL 46818
SUPPORTIVE SERVICES, AND OLDER AMERICANS SUPPORT SERVICES 46819

Upon written request of the Director of Aging, the Director 46820
of Budget and Management may transfer appropriation authority 46821
among appropriation items 490-611, Federal Aging Nutrition, 46822
490-612, Federal Supportive Services, and 490-618, Older Americans 46823
Support Services, in amounts not to exceed 30 per cent of the 46824
appropriation from which the transfer is made. The Department of 46825
Aging shall report such transfers to the Controlling Board at the 46826
next regularly scheduled meeting of the board. 46827

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OHIO COMMUNITY SERVICE COUNCIL				46828
The foregoing appropriation items 490-409, Ohio Community				46829
Service Council, and 490-617, Ohio Community Service Council				46830
Programs, shall be used in accordance with section 121.40 of the				46831
Revised Code.				46832
Section 17. AGR DEPARTMENT OF AGRICULTURE				46833
General Revenue Fund				46834
GRF 700-321	Operating Expenses	\$ 3,160,884	\$ 3,334,073	46835
GRF 700-401	Animal Disease Control	\$ 4,340,887	\$ 4,385,108	46836
GRF 700-402	Amusement Ride Safety	\$ 226,451	\$ 230,769	46837
GRF 700-403	Dairy Division	\$ 1,569,097	\$ 1,707,877	46838
GRF 700-404	Ohio Proud	\$ 222,856	\$ 228,266	46839
GRF 700-405	Animal Damage Control	\$ 86,780	\$ 84,358	46840
GRF 700-406	Consumer Analytical	\$ 889,058	\$ 900,001	46841
Lab				
GRF 700-407	Food Safety	\$ 1,422,998	\$ 1,377,956	46842
GRF 700-409	Farmland Preservation	\$ 100,000	\$ 100,000	46843
GRF 700-410	Plant Industry	\$ 1,517,969	\$ 1,561,620	46844
GRF 700-411	International Trade	\$ 889,620	\$ 798,062	46845
and Market Development				
GRF 700-412	Weights and Measures	\$ 991,136	\$ 996,634	46846
GRF 700-413	Gypsy Moth Prevention	\$ 633,214	\$ 634,279	46847
GRF 700-414	Concentrated Animal	\$ 23,275	\$ 22,663	46848
Feeding Facilities				
Advisory Committee				
GRF 700-415	Poultry Inspection	\$ 322,256	\$ 320,960	46849
GRF 700-418	Livestock Regulation	\$ 1,357,487	\$ 1,563,898	46850
Program				
GRF 700-424	Livestock Testing and	\$ 229,996	\$ 228,438	46851
Inspections				
GRF 700-499	Meat Inspection	\$ 4,654,566	\$ 4,977,168	46852

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Program - State Share					
GRF	700-501	County Agricultural Societies	\$	466,842	\$ 466,842 46853
GRF	700-503	Swine and Cattle Breeder Awards	\$	113,160	\$ 107,076 46854
TOTAL GRF	General Revenue Fund		\$	23,218,532	\$ 24,026,048 46855
Federal Special Revenue Fund Group					46856
3J4	700-607	Indirect Cost	\$	1,380,026	\$ 1,314,020 46857
3R2	700-614	Federal Plant Industry	\$	1,607,887	\$ 1,682,330 46858
326	700-618	Meat Inspection Service - Federal Share	\$	4,401,707	\$ 4,959,973 46859
336	700-617	Ohio Farm Loan Revolving Fund	\$	181,774	\$ 181,774 46860
382	700-601	Cooperative Contracts	\$	1,027,692	\$ 1,091,347 46861
TOTAL FED	Federal Special Revenue Fund Group		\$	8,599,086	\$ 9,229,444 46862
State Special Revenue Fund Group					46864
4C9	700-605	Feed, Fertilizer, and Lime Inspection	\$	909,033	\$ 975,244 46865
4D2	700-609	Auction Education	\$	30,476	\$ 30,476 46866
4E4	700-606	Utility Radiological Safety	\$	69,016	\$ 73,059 46867
4P7	700-610	Food Safety Inspection	\$	559,611	\$ 575,797 46868
4R0	700-636	Ohio Proud Marketing	\$	125,297	\$ 133,614 46869
4R2	700-637	Dairy Inspection Fund	\$	1,183,358	\$ 1,174,591 46870
4T6	700-611	Poultry and Meat Inspection	\$	47,294	\$ 47,294 46871
4T7	700-613	International Trade and Market Development Rotary	\$	161,991	\$ 166,356 46872
4V5	700-615	Animal Industry Lab	\$	626,633	\$ 633,097 46873

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Fees				
493	700-603	Fruits and Vegetables	\$ 212,764	\$ 171,772 46874
Inspection Fees				
494	700-612	Agricultural Commodity	\$ 166,536	\$ 169,867 46875
Marketing Program				
496	700-626	Ohio Grape Industries	\$ 1,048,667	\$ 1,071,099 46876
497	700-627	Commodity Handlers	\$ 566,862	\$ 648,616 46877
Regulatory Program				
5B8	700-628	Auctioneers	\$ 346,769	\$ 365,390 46878
5H2	700-608	Metrology Lab	\$ 74,674	\$ 138,624 46879
5L8	700-604	Livestock Management	\$ 250,000	\$ 250,000 46880
Program				
578	700-620	Ride Inspection Fees	\$ 634,099	\$ 650,774 46881
579	700-630	Scale Certification	\$ 230,047	\$ 230,047 46882
652	700-634	Laboratory Services	\$ 1,179,560	\$ 1,144,766 46883
669	700-635	Pesticide Program	\$ 2,108,049	\$ 2,181,491 46884
TOTAL SSR State Special Revenue				46885
Fund Group			\$ 10,530,736	\$ 10,831,974 46886
TOTAL ALL BUDGET FUND GROUPS			\$ 42,348,354	\$ 44,087,466 46887
ANIMAL DISEASE CONTROL				46888
The funds in appropriation item 700-401, Animal Disease				46889
Control, may be used for the detection, prevention, and emergency				46890
management of, and the education of the public regarding, Foot and				46891
Mouth disease, Mad Cow disease, and West Nile virus.				46892
THE AUCTION FUND				46893
On October 1, 2001, the unencumbered cash balances in the				46894
Auction Education Fund (Fund 4D2) and the Auction Licensing Fund				46895
(Fund 5B8) shall be transferred from the Department of Commerce to				46896
the Department of Agriculture. During the 90-day period before the				46897
transfer, the Director of Commerce and the Director of Agriculture				46898
shall enter into an agreement and take all steps necessary to				46899
transfer the duties and responsibilities related to the licensing				46900

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and oversight of auctioneers from the Department of Commerce to 46901
the Department of Agriculture. The Director of Commerce and the 46902
Director of Agriculture shall recommend to the Director of Budget 46903
and Management any transfer of funds necessary to carry out this 46904
transfer of responsibilities. 46905

THE DAIRY INDUSTRY FUND 46906

On July 1, 2001, or as soon thereafter as possible, the 46907
Director of Budget and Management shall transfer the cash balance 46908
in the License Fees (Fund 4V0) to the Dairy Inspection Fund (Fund 46909
4R2). The director shall cancel any existing encumbrances against 46910
appropriation item 700-602, License Fees (Fund 4V0), and 46911
reestablish them against appropriation item 700-637, Dairy 46912
Inspection (Fund 4R2). The amounts of the reestablished 46913
encumbrances are appropriated. 46914

Section 18. AIR AIR QUALITY DEVELOPMENT AUTHORITY 46915

Agency Fund Group 46916

4Z9	898-602	Small Business	\$	222,719	\$	233,482	46917
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Ombudsman

5A0	898-603	Small Business	\$	192,647	\$	197,463	46918
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Assistance

570	898-601	Operating Expenses	\$	243,070	\$	258,383	46919
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TOTAL AGY	Agency Fund Group	\$	658,436	\$	689,328	46920
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TOTAL ALL BUDGET FUND GROUPS	\$	658,436	\$	689,328	46921
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Section 19. ADA DEPARTMENT OF ALCOHOL AND 46923

DRUG ADDICTION SERVICES 46924

General Revenue Fund 46925

GRF	038-321	Operating Expenses	\$	1,500,549	\$	1,548,211	46926
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GRF	038-401	Alcohol and Drug	\$	29,742,355	\$	28,946,504	46927
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Addiction Services

GRF	038-404	Prevention Services	\$	1,327,357	\$	1,292,427	46928
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