

**As Reported by the Senate State and Local Government and  
Veterans Affairs Committee**

**125th General Assembly**

**Regular Session**

**2003-2004**

**Sub. H. B. No. 262**

**Representatives Carmichael, Peterson, Seitz, Niehaus, Bocchieri, Aslanides,  
Reinhard, Koziura, Buehrer, Calvert, D. Evans, Flowers, Gilb, Grendell,  
Kilbane, Schmidt, Taylor**

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**A B I L L**

To amend sections 124.57, 3501.05, 3501.10, 3501.28, 1  
3506.01, 3506.05, 3506.06, 3506.10, 3509.07, 2  
3513.052, 3517.109, 3517.1010, 3519.16, 4117.03, 3  
4301.323, 4301.355, and 4301.365 and to enact 4  
sections 3506.17, 3506.18, and 3506.19 of the 5  
Revised Code and to amend Section 99 of Am. Sub. 6  
H.B. 95 of the 125th General Assembly to revise 7  
the Election Law, the Liquor Control Law, the 8  
Collective Bargaining Law, or the Campaign Finance 9  
Law by increasing the maximum poll worker pay, 10  
permitting employees of the state and of political 11  
subdivisions to work as judges of elections and 12  
receive poll worker pay in addition to their 13  
regular employment compensation under certain 14  
circumstances, eliminating the required ballot 15  
language describing certain past local option 16  
elections when a local option election is held on 17  
sales of alcoholic beverages at a specific 18  
location, changing the ballot language for certain 19  
of those local option elections to specify that 20  
the election applies to spirituous liquor instead 21

of intoxicating liquor, establishing requirements 22  
for protests against initiative or referendum 23  
petitions, prohibiting collective bargaining 24  
between county boards of elections and their 25  
employees, requiring all direct recording 26  
electronic voting machines used in this state to 27  
include a voter verified paper audit trail, 28  
changing the process for counties to acquire 29  
voting systems using funds made available pursuant 30  
to the Help America Vote Act of 2002, changing the 31  
applicability of the law relative to the disposal 32  
of excess funds and excess aggregate 33  
contributions, and making other changes, and to 34  
make an appropriation. 35

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

**Section 1.** That sections 124.57, 3501.05, 3501.10, 3501.28, 36  
3506.01, 3506.05, 3506.06, 3506.10, 3509.07, 3513.052, 3517.109, 37  
3517.1010, 3519.16, 4117.03, 4301.323, 4301.355, and 4301.365 be 38  
amended and sections 3506.17, 3506.18, and 3506.19 of the Revised 39  
Code be enacted to read as follows: 40

**Sec. 124.57.** (A) No officer or employee in the classified 41  
service of the state, the several counties, cities, and city 42  
school districts ~~thereof~~ of the state, ~~and or the~~ civil service 43  
townships, of the state shall directly or indirectly, orally or by 44  
letter, solicit or receive, or be in any manner concerned in 45  
soliciting or receiving, any assessment, subscription, or 46  
contribution for any political party or for any candidate for 47  
public office; nor shall any person solicit directly or 48  
indirectly, orally or by letter, or be in any manner concerned in 49  
soliciting, any such assessment, contribution, or payment from any 50

officer or employee in the classified service of the state ~~and,~~ 51  
the several counties, cities, or city school districts ~~thereof of~~ 52  
the state, or the civil service townships of the state; nor shall 53  
any officer or employee in the classified service of the state, 54  
the several counties, cities, and city school districts ~~thereof of~~ 55  
the state, ~~and or the~~ civil service townships, of the state be an 56  
officer in any political organization or take part in politics 57  
other than to vote as the officer or employee pleases and to 58  
express freely political opinions. 59

(B)(1) Nothing in division (A) of this section prohibits an 60  
officer or employee described in that division from serving as a 61  
precinct election official under section 3501.22 of the Revised 62  
Code. ~~An officer or employee who serves as a precinct election~~ 63  
~~official may use vacation leave to so serve.~~ 64

(2) Nothing in division (A) of this section prohibits an 65  
employee of the Ohio cooperative extension service whose position 66  
is transferred from the unclassified civil service to the 67  
classified civil service and who also holds the office of 68  
president of a city legislative authority from completing the 69  
existing term of office as president. 70

**Sec. 3501.05.** The secretary of state shall do all of the 71  
following: 72

(A) Appoint all members of boards of elections; 73

(B) Issue instructions by directives and advisories to 74  
members of the boards as to the proper methods of conducting 75  
elections; 76

(C) Prepare rules and instructions for the conduct of 77  
elections; 78

(D) Publish and furnish to the boards from time to time a 79  
sufficient number of indexed copies of all election laws then in 80

force;	81
(E) Edit and issue all pamphlets concerning proposed laws or amendments required by law to be submitted to the voters;	82 83
(F) Prescribe the form of registration cards, blanks, and records;	84 85
(G) Determine and prescribe the forms of ballots and the forms of all blanks, cards of instructions, pollbooks, tally sheets, certificates of election, and forms and blanks required by law for use by candidates, committees, and boards;	86 87 88 89
(H) Prepare the ballot title or statement to be placed on the ballot for any proposed law or amendment to the constitution to be submitted to the voters of the state;	90 91 92
(I) Certify to the several boards the forms of ballots and names of candidates for state offices, and the form and wording of state referendum questions and issues, as they shall appear on the ballot;	93 94 95 96
(J) Give final approval to ballot language for any local question or issue approved and transmitted by boards of elections under section 3501.11 of the Revised Code;	97 98 99
(K) Receive all initiative and referendum petitions on state questions and issues and determine and certify to the sufficiency of those petitions;	100 101 102
(L) Require such reports from the several boards as are provided by law, or as the secretary of state considers necessary;	103 104
(M) Compel the observance by election officers in the several counties of the requirements of the election laws;	105 106
(N)(1) Except as otherwise provided in division (N)(2) of this section, investigate the administration of election laws, frauds, and irregularities in elections in any county, and report violations of election laws to the attorney general or prosecuting	107 108 109 110

attorney, or both, for prosecution;	111
(2) On and after August 24, 1995, report a failure to comply	112
with or a violation of a provision in sections 3517.08 to 3517.13,	113
3517.17, 3517.18, 3517.20 to 3517.22, 3599.03, or 3599.031 of the	114
Revised Code, whenever the secretary of state has or should have	115
knowledge of a failure to comply with or a violation of a	116
provision in one of those sections, by filing a complaint with the	117
Ohio elections commission under section 3517.153 of the Revised	118
Code;	119
(O) Make an annual report to the governor containing the	120
results of elections, the cost of elections in the various	121
counties, a tabulation of the votes in the several political	122
subdivisions, and other information and recommendations relative	123
to elections the secretary of state considers desirable;	124
(P) Prescribe and distribute to boards of elections a list of	125
instructions indicating all legal steps necessary to petition	126
successfully for local option elections under sections 4301.32 to	127
4301.41, 4303.29, 4305.14, and 4305.15 of the Revised Code;	128
(Q) Prescribe a general program to remove ineligible voters	129
from official registration lists by reason of change of residence,	130
which shall be uniform, nondiscriminatory, and in compliance with	131
the Voting Rights Act of 1965 and the National Voter Registration	132
Act of 1993, including a program that uses the national change of	133
address service provided by the United States postal system	134
through its licensees;	135
(R) Prescribe a general program for registering voters or	136
updating voter registration information, such as name and	137
residence changes, at designated agencies, the offices of deputy	138
registrars of motor vehicles, public high schools and vocational	139
schools, public libraries, and the offices of county treasurers,	140
and prescribe a program of distribution of voter registration	141

forms through those agencies, the offices of the registrar and 142  
deputy registrars of motor vehicles, public high schools and 143  
vocational schools, public libraries, and the offices of county 144  
treasurers; 145

(S) To the extent feasible, provide copies, at no cost and 146  
upon request, of the voter registration form in post offices in 147  
this state; 148

(T) Adopt rules pursuant to section 111.15 of the Revised 149  
Code for the purpose of implementing the program for registering 150  
voters at designated agencies and the offices of the registrar and 151  
deputy registrars of motor vehicles consistent with this chapter; 152

(U) Specify, by a directive issued not later than thirty-five 153  
days prior to the date of an election, the date by which the 154  
boards shall complete the canvass of election returns under 155  
section 3505.32 or 3513.22 of the Revised Code; 156

(V) Establish the full-time position of Americans with 157  
Disabilities Act coordinator within the office of the secretary of 158  
state to do all of the following: 159

(1) Assist the secretary of state with ensuring that there is 160  
equal access to polling places for persons with disabilities; 161

(2) Assist the secretary of state with ensuring that each 162  
voter may cast the voter's ballot in a manner that provides the 163  
same opportunity for access and participation, including privacy 164  
and independence, as for other voters; 165

(3) Advise the secretary of state in the development of 166  
standards for the certification of voting machines, marking 167  
devices, and automatic tabulating equipment. 168

(W) Perform other duties required by law. 169

Whenever a primary election is held under section 3513.32 of 170  
the Revised Code or a special election is held under section 171

3521.03 of the Revised Code to fill a vacancy in the office of 172  
representative to congress, the secretary of state shall establish 173  
a deadline, notwithstanding any other deadline required under the 174  
Revised Code, by which any or all of the following shall occur: 175  
the filing of a declaration of candidacy and petitions or a 176  
statement of candidacy and nominating petition together with the 177  
applicable filing fee; the filing of protests against the 178  
candidacy of any person filing a declaration of candidacy or 179  
nominating petition; the filing of a declaration of intent to be a 180  
write-in candidate; the filing of campaign finance reports; the 181  
preparation of, and the making of corrections or challenges to, 182  
precinct voter registration lists; the receipt of applications for 183  
absent voter's ballots or armed service absent voter's ballots; 184  
the supplying of election materials to precincts by boards of 185  
elections; the holding of hearings by boards of elections to 186  
consider challenges to the right of a person to appear on a voter 187  
registration list; and the scheduling of programs to instruct or 188  
reinstruct election officers. 189

In the performance of the secretary of state's duties as the 190  
chief election officer, the secretary of state may administer 191  
oaths, issue subpoenas, summon witnesses, compel the production of 192  
books, papers, records, and other evidence, and fix the time and 193  
place for hearing any matters relating to the administration and 194  
enforcement of the election laws. 195

In any controversy involving or arising out of the adoption 196  
of registration or the appropriation of funds for registration, 197  
the secretary of state may, through the attorney general, bring an 198  
action in the name of the state in the court of common pleas of 199  
the county where the cause of action arose or in an adjoining 200  
county, to adjudicate the question. 201

In any action involving the laws in Title XXXV of the Revised 202  
Code wherein the interpretation of those laws is in issue in such 203

a manner that the result of the action will affect the lawful 204  
duties of the secretary of state or of any board of elections, the 205  
secretary of state may, on the secretary of state's motion, be 206  
made a party. 207

The secretary of state may apply to any court that is hearing 208  
a case in which the secretary of state is a party, for a change of 209  
venue as a substantive right, and the change of venue shall be 210  
allowed, and the case removed to the court of common pleas of an 211  
adjoining county named in the application or, if there are cases 212  
pending in more than one jurisdiction that involve the same or 213  
similar issues, the court of common pleas of Franklin county. 214

Public high schools and vocational schools, public libraries, 215  
and the office of a county treasurer shall implement voter 216  
registration programs as directed by the secretary of state 217  
pursuant to this section. 218

**Sec. 3501.10.** (A) The board of elections shall, as an expense 219  
of the board, provide suitable rooms for its offices and records 220  
and the necessary and proper furniture and supplies for ~~such~~ those 221  
rooms. The board may lease such offices and rooms, necessary to 222  
its operation, for ~~such~~ the length of time and upon ~~such~~ the terms 223  
~~as~~ the board deems in the best interests of the public, provided 224  
that the term of any such lease shall not exceed fifteen years. 225

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Thirty days prior to entering into such a lease, the board 227  
shall notify the board of county commissioners in writing of its 228  
intent to enter into the lease. The notice shall specify the terms 229  
and conditions of the lease. Prior to the thirtieth day after 230  
receiving that notice and before any lease is entered into, the 231  
board of county commissioners may reject the proposed lease by a 232  
majority vote. After receiving written notification of the 233  
rejection by the board of county commissioners, the board of 234

elections shall not enter into the lease that was rejected, but 235  
may immediately enter into additional lease negotiations, subject 236  
to the requirements of this section. 237

The board of elections in any county may, by resolution, 238  
request that the board of county commissioners submit to the 239  
electors of the county, in accordance with section 133.18 of the 240  
Revised Code, the question of issuing bonds for the acquisition of 241  
real estate and the construction on it of a suitable building with 242  
necessary furniture and equipment for the proper administration of 243  
the duties of the board of elections. The resolution declaring the 244  
necessity for issuing such bonds shall relate only to the 245  
acquisition of real estate and to the construction, furnishing, 246  
and equipping of a building as provided in this division. 247

(B) The board of elections in each county shall keep its 248  
offices, or one or more of its branch registration offices, open 249  
for the performance of its duties ~~an additional seven hours each~~ 250  
~~week for three weeks before the close~~ until nine p.m. on the last 251  
day of registration before a general or primary election. At all 252  
other times during each week, the board shall keep its offices and 253  
rooms open for a period of time that ~~such~~ the board considers 254  
necessary for the performance of its duties. 255

(C) The board of elections may maintain permanent or 256  
temporary branch offices at any place within the county. 257

**Sec. 3501.28.** (A) As used in this section: 258

(1) "Fair Labor Standards Act" or "Act" means the "Fair Labor 259  
Standards Act of 1938," 52 Stat. 1062, 29 U.S.C.A. 201, as 260  
amended. 261

(2) "Full election day" means the period of time between the 262  
opening of the polls and the completion of the procedures 263  
contained in section 3501.26 of the Revised Code. 264

(3) "Services" means services at each general, primary, or special election. 265  
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~~(B) For any election held in 1997 on or after the effective date of this amendment, each judge of an election in a county shall be paid for the judge's services at the same hourly rate, which shall be the minimum hourly rate established by the Fair Labor Standards Act.~~ 267  
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~~(C) Beginning with calendar year 1998, each judge of an election in a county shall be paid for the judge's services at the same hourly rate, which shall be not less than the minimum hourly rate established by the Fair Labor Standards Act and not more than eighty-five dollars per diem.~~ 272  
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(C) Beginning with calendar year 2004, each judge of an election in a county shall be paid for the judge's services at the same hourly rate, which shall be not less than the minimum hourly rate established by the Fair Labor Standards Act and not more than ninety-five dollars per diem. 277  
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~~(D) Beginning with calendar year 1998, the The secretary of state shall establish, by rule adopted under section 111.15 of the Revised Code, the maximum amount of per diem compensation that may be paid to judges of an election under this section each time the Fair Labor Standards Act is amended to increase the minimum hourly rate established by the act. Upon learning of such an increase, the secretary of state shall determine by what percentage the minimum hourly rate has been increased under the act and establish a new maximum amount of per diem compensation that judges of an election may be paid under this section that is increased by the same percentage that the minimum hourly rate has been increased under the act.~~ 282  
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~~(E)(1) Beginning with calendar year 1990, no (a) No board of elections shall increase the pay of a judge of an election under~~ 294  
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this section during a calendar year unless the board has given 296  
written notice of the proposed increase to the board of county 297  
commissioners not later than the first day of October of the 298  
preceding calendar year. ~~Beginning with calendar year 1998, except~~ 299

(b) Except as otherwise provided in division (E)(2) of this 300  
section, ~~no~~ a board of elections ~~shall~~ may increase the pay of a 301  
judge of an election during a calendar year by ~~more than~~ up to, 302  
but not exceeding, nine per cent over the compensation paid to a 303  
judge of an election in the county where the board is located 304  
during the previous calendar year, if the compensation so paid 305  
during the previous calendar year was eighty-five dollars or less 306  
per diem. 307

(c) Except as otherwise provided in division (E)(2) of this 308  
section, a board of elections may increase the pay of a judge of 309  
an election during a calendar year by up to, but not exceeding, 310  
four and one-half per cent over the compensation paid to a judge 311  
of an election in the county where the board is located during the 312  
previous calendar year, if the compensation so paid during the 313  
previous calendar year was more than eighty-five but less than 314  
ninety-five dollars per diem. 315

(2) The board of county commissioners may review and comment 316  
upon a proposed increase and may enter into a written agreement 317  
with a board of elections to permit an increase in the 318  
compensation paid to judges of an election for their services 319  
during a calendar year that is greater than the ~~nine per cent~~ 320  
applicable percentage limitation described in division (E)(1)(b) 321  
or (c) of this section. 322

(F) No judge of an election who works less than the full 323  
election day shall be paid the maximum amount allowed under this 324  
section or the maximum amount as set by the board of elections, 325  
whichever is less. 326

(G)(1) Except as otherwise provided in divisions (G)(4) to 327  
(6) of this section, any employee of the state or of any political 328  
subdivision of the state may serve as a judge of elections on the 329  
day of an election without loss of the employee's regular 330  
compensation for that day as follows: 331

(a) For employees of a county office, department, commission, 332  
board, or other entity, or of a court of common pleas, county 333  
court, or county-operated municipal court, as defined in section 334  
1901.03 of the Revised Code, the employee's appointing authority 335  
may permit leave with pay for this service in accordance with a 336  
resolution setting forth the terms and conditions for that leave 337  
passed by the board of county commissioners. 338

(b) For all other employees of a political subdivision of the 339  
state, leave with pay for this service shall be subject to the 340  
terms and conditions set forth in an ordinance or a resolution 341  
passed by the legislative authority of the applicable political 342  
subdivision. 343

(c) For state employees, leave with pay for this service 344  
shall be subject to the terms and conditions set forth by the head 345  
of the state agency, as defined in section 1.60 of the Revised 346  
Code, by which the person is employed. 347

(2) Any terms and conditions set forth by a board of county 348  
commissioners, legislative authority of a political subdivision, 349  
or head of a state agency under division (G)(1) of this section 350  
shall include a standard procedure for deciding which employees 351  
are permitted to receive leave with pay if multiple employees of 352  
an entity or court described in division (G)(1)(a) of this 353  
section, of an entity of a political subdivision described in 354  
division (G)(1)(b) of this section, or of a state agency as 355  
defined in section 1.60 of the Revised Code apply to serve as a 356  
judge of elections on the day of an election. This procedure shall 357

be applied uniformly to all similarly situated employees.

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(3) Any employee who is eligible for leave with pay under  
division (G)(1) of this section shall receive, in addition to the  
employee's regular compensation, the compensation paid to the  
judge of an election under division (B), (C), or (D) of this  
section.

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(4) Division (G)(1) of this section does not apply to either  
of the following:

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(a) Election officials;

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(b) Public school teachers.

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(5) Nothing in division (G)(1) of this section supersedes or  
negates any provision of a collective bargaining agreement in  
effect under Chapter 4117. of the Revised Code.

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(6) If a board of county commissioners, legislative authority  
of a political subdivision, or head of a state agency fails to set  
forth any terms and conditions under division (G)(1) of this  
section, an employee of an entity or court described in division  
(G)(1)(a) of this section, of an entity of a political subdivision  
described in division (G)(1)(b) of this section, or of a state  
agency as defined in section 1.60 of the Revised Code may use  
personal leave, vacation leave, or compensatory time, or take  
unpaid leave, to serve as a judge of elections on the day of an  
election.

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(H) The board of elections may withhold the compensation of  
any precinct official for failure to obey the instructions of the  
board or to comply with the law relating to the duties of such  
precinct judge. Any payment a judge of an election is entitled to  
receive under section 3501.36 of the Revised Code is in addition  
to the compensation the judge is entitled to receive under this  
section.

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Sec. 3506.01. As used in this chapter and Chapters 3501., 388  
3503., 3505., 3509., 3511., 3513., 3515., 3517., 3519., 3521., 389  
3523., and 3599. of the Revised Code: 390

(A) "Marking device" means an apparatus operated by a voter 391  
to record ~~his~~ the voter's choices through the piercing or marking 392  
of ballots enabling them to be examined and counted by automatic 393  
tabulating equipment. 394

(B) "Ballot" means the official election presentation of 395  
offices and candidates, including write-in candidates, and of 396  
questions and issues, and the means by which votes are recorded. 397

(C) "Automatic tabulating equipment" means a machine or 398  
interconnected or interrelated machines that will automatically 399  
examine and count votes recorded on ballots. 400

(D) "Central counting station" means a location, or one of a 401  
number of locations, designated by the board of elections for the 402  
automatic examining, sorting, or counting of ballots. 403

(E) "Voting machines" means mechanical or electronic 404  
equipment for the direct recording and tabulation of votes. 405

(F) "Direct recording electronic voting machine" means a 406  
voting machine that records votes by means of a ballot display 407  
provided with mechanical or electro-optical components that can be 408  
actuated by the voter, that processes the data by means of a 409  
computer program, and that records voting data and ballot images 410  
in internal or external memory components. A "direct recording 411  
electronic voting machine" produces a tabulation of the voting 412  
data stored in a removable memory component and in printed copy. 413

(G) "Help America Vote Act of 2002" means the "Help America 414  
Vote Act of 2002," Public Law 107-252, 116 Stat. 1666. 415

(H) "Voter verified paper audit trail" means a physical paper 416  
printout on which the voter's ballot choices, as registered by a 417

direct recording electronic voting machine, are recorded. The 418  
voter shall be permitted to visually or audibly inspect the 419  
contents of the physical paper printout. The physical paper 420  
printout shall be securely retained at the polling place until the 421  
close of the polls on the day of the election; the secretary of 422  
state shall adopt rules under Chapter 119. of the Revised Code 423  
specifying the manner of storing the physical paper printout at 424  
the polling place. After the physical paper printout is produced, 425  
but before the voter's ballot is recorded, the voter shall have an 426  
opportunity to accept or reject the contents of the printout as 427  
matching the voter's ballot choices. If a voter rejects the 428  
contents of the physical paper printout, the system that produces 429  
the voter verified paper audit trail shall invalidate the printout 430  
and permit the voter to recast the voter's ballot. On and after 431  
the first federal election that occurs after January 1, 2006, 432  
unless required sooner by the Help America Vote Act of 2002, any 433  
system that produces a voter verified paper audit trail shall be 434  
accessible to disabled voters, including visually impaired voters, 435  
in the same manner as the direct recording electronic voting 436  
machine that produces it. 437

**Sec. 3506.05.** (A) As used in this section, except when used 438  
as part of the phrase "tabulating equipment" or "automatic 439  
tabulating equipment": 440

(1) "Equipment" means a voting machine, marking device, 441  
automatic tabulating equipment, or software~~r~~. 442

(2) "Vendor" means the person that owns, manufactures, 443  
distributes, or has the legal right to control the use of 444  
equipment, or ~~his~~ the person's agent. 445

(B) No voting machine, marking device, automatic tabulating 446  
equipment, or software for the purpose of casting or tabulating 447  
votes or for communications among systems involved in the 448

tabulation, storage, or casting of votes shall be purchased, 449  
leased, put in use, or continued to be used, except for 450  
experimental use as provided in division (B) of section 3506.04 of 451  
the Revised Code, unless it, ~~and~~ a manual of procedures governing 452  
its use, and training materials, service, and other support 453  
arrangements, have been certified by the secretary of state and 454  
unless the board of elections of each county where the equipment 455  
will be used has assured that a demonstration of the use of ~~such~~ 456  
the equipment has been made available to all interested electors. 457  
The secretary of state shall appoint a board of voting machine 458  
examiners to examine and approve equipment and ~~examine and approve~~ 459  
its related manuals and support arrangements. The board shall 460  
consist of one competent and experienced election officer and two 461  
persons who are knowledgeable about the operation of such 462  
equipment, who shall serve during the secretary of state's term. 463

~~(1)~~ For ~~his~~ the member's service, each member of ~~such the~~ 464  
board shall receive three hundred dollars per day for each 465  
combination of marking device, tabulating equipment, and voting 466  
machine examined and reported, but in no event shall a member 467  
receive more than six hundred dollars to examine and report on any 468  
one marking device, item of tabulating equipment, or voting 469  
machine. Each member of the board shall be reimbursed for expenses 470  
~~he the member~~ incurs during an examination or during the 471  
performance of any related duties that may be required by the 472  
secretary of state. Reimbursement of these expenses shall be made 473  
in accordance with, and shall not exceed, the rates provided for 474  
under section 126.31 of the Revised Code. 475

~~(2)~~ Neither the secretary of state nor the board, nor any 476  
public officer who participates in the authorization, examination, 477  
testing, or purchase of equipment, shall have any pecuniary 478  
interest in the equipment or any affiliation with the vendor. 479

(C)(1) A vendor who desires to have the secretary of state 480

certify equipment shall first submit the equipment, ~~and~~ all 481  
current related procedural manuals, and a current description of 482  
all related support arrangements, to the board of voting machine 483  
examiners for examination, testing, and approval. The submission 484  
shall be accompanied by a fee of eighteen hundred dollars and a 485  
detailed explanation of the construction and method of operation 486  
of the equipment, a full statement of its advantages, and a list 487  
of the patents and copyrights used in operations essential to the 488  
processes of vote recording and tabulating, vote storage, system 489  
security, and other crucial operations of the equipment as may be 490  
determined by the board. An additional fee, in an amount to be set 491  
by rules promulgated by the board, may be imposed to pay for the 492  
costs of alternative testing or testing by persons other than 493  
board members, record-keeping, and other extraordinary costs 494  
incurred in the examination process. Moneys not used shall be 495  
returned to the person or entity submitting the equipment for 496  
examination. 497

(2) Fees collected by the secretary of state under this 498  
section shall be deposited into the state treasury to the credit 499  
of the board of voting machine examiners fund, which is hereby 500  
created. All moneys credited to this fund shall be used solely for 501  
the purpose of paying for the services and expenses of each member 502  
of the board ~~of voting machine examiners~~ or for ~~such~~ other 503  
expenses ~~as may be~~ incurred relating to the examination, testing, 504  
reporting, or certification of voting machine devices, the 505  
performance of any related duties as required by the secretary of 506  
state, or the reimbursement of any person submitting an 507  
examination fee as provided in this chapter. 508

(D) Within sixty days after the submission of the equipment 509  
and payment of the fee, or as soon thereafter as is reasonably 510  
practicable, but in any event within not more than ninety days 511  
after the submission and payment, the board of voting machine 512

examiners shall examine the equipment and file with the secretary 513  
of state a written report ~~thereon~~ on the equipment with its 514  
recommendations and its determination or condition of approval 515  
regarding whether the equipment, manual, and other related 516  
materials or arrangements meet the criteria set forth in sections 517  
3506.07 and 3506.10 of the Revised Code and can be safely used by 518  
the voters at elections under the conditions prescribed in Title 519  
XXXV of the Revised Code, or a written statement of reasons for 520  
which testing requires a longer period. The board may grant 521  
temporary approval for the purpose of allowing experimental use of 522  
equipment. If the board finds that the equipment meets the 523  
criteria set forth in sections 3506.06, 3506.07, and 3506.10 of 524  
the Revised Code, can be used safely and can be depended upon to 525  
record and count accurately and continuously the votes of 526  
electors, and has the capacity to be warranted, maintained, and 527  
serviced, it shall approve the equipment and recommend that the 528  
secretary of state certify the equipment. The secretary of state 529  
shall notify all boards of elections of any such certification. 530  
~~Such equipment~~ Equipment of the same model and make, if it 531  
provides for recording of voter intent, system security, voter 532  
privacy, retention of vote, and communication of voting records in 533  
an identical manner, may then be adopted for use at elections. 534

(E) The vendor shall notify the secretary of state, who shall 535  
then notify the board of voting machine examiners, of any 536  
enhancement and any significant adjustment to the hardware or 537  
software that could result in a patent or copyright change or that 538  
significantly alters the methods of recording voter intent, system 539  
security, voter privacy, retention of the vote, communication of 540  
voting records, and connections between the system and other 541  
systems. The vendor shall provide the secretary of state with an 542  
updated operations manual for the equipment, and the secretary of 543  
state shall forward the manual to the board. Upon receiving such a 544  
notification and manual, the board may require the vendor to 545

submit the equipment to an examination and test in order for the 546  
equipment to remain certified. The board or the secretary of state 547  
shall periodically examine, test, and inspect certified equipment 548  
to determine continued compliance with the requirements of this 549  
chapter and the initial certification. Any examination, test, or 550  
inspection conducted for the purpose of continuing certification 551  
of any equipment in which a significant problem has been uncovered 552  
or in which a record of continuing problems exists shall be 553  
performed pursuant to divisions (C) and (D) of this section, in 554  
the same manner as the examination, test, or inspection is 555  
performed for initial approval and certification. 556

(F) If at any time after the certification of equipment, the 557  
board of voting machine examiners or the secretary of state is 558  
notified by ~~the~~ a board of elections of any significant problem 559  
with the equipment or determines that the equipment fails to meet 560  
the requirements necessary for approval or continued compliance 561  
with the requirements of this chapter, or if the board of voting 562  
machine examiners determines that there are significant 563  
enhancements or adjustments to the hardware or software, or if 564  
notice of such enhancements or adjustments has not been given as 565  
required by division (E) of this section, the secretary of state 566  
shall notify the users and vendors of that equipment that 567  
certification of the equipment may be withdrawn. 568

(G)(1) The notice given by the secretary of state under 569  
division (F) of this section shall be in writing and shall specify 570  
both of the following: 571

(a) The reasons why the certification may be withdrawn; 572

(b) The date on which certification will be withdrawn unless 573  
the vendor takes satisfactory corrective measures or explains why 574  
there are no problems with the equipment or why the enhancements 575  
or adjustments to the equipment are not significant. 576

(2) A vendor who receives a notice under division (F) of this section shall, within thirty days after receiving it, submit to the board of voting machine examiners in writing a description of the corrective measures taken and the date on which they were taken, or the explanation required under division (G)(1)(b) of this section.

(3) Not later than fifteen days after receiving a written description or explanation under division (G)(2) of this section from a vendor, the board shall determine whether the corrective measures taken or the explanation is satisfactory to allow continued certification of the equipment, and the secretary of state shall send the vendor a written notice of the board's determination, specifying the reasons for it. If the board has determined that the measures taken or the explanation given is unsatisfactory, the notice shall include the effective date of withdrawal of the certification. This date may be different from the date originally specified in division (G)(1)(b) of this section.

(4) A vendor who receives a notice under division (G)(3) of this section indicating a decision to withdraw certification may, within thirty days after receiving it, request in writing that the board hold a hearing to reconsider its decision. Any interested party shall be given the opportunity to submit testimony or documentation in support of or in opposition to the board's recommendation to withdraw certification. Failure of the vendor to take appropriate steps as described in division (G)(1)(b) or to comply with division (G)(2) of this section results in a waiver of ~~his~~ the vendor's rights under division (G)(4) of this section.

(H)(1) The secretary of state, in consultation with the board of voting machine examiners, shall establish, by rule, guidelines for the approval, certification, and continued certification of the voting machines, marking devices, and tabulating equipment to

be used under Title XXXV of the Revised Code. The guidelines shall 609  
establish procedures requiring vendors or computer software 610  
developers to place in escrow with an independent escrow agent 611  
approved by the secretary of state a copy of all source code and 612  
related documentation, together with periodic updates as they 613  
become known or available. The secretary of state shall require 614  
that the documentation include a system configuration and that the 615  
source code include all relevant program statements in low- or 616  
high-level languages. As used in this division, "source code" does 617  
not include variable codes created for specific elections. 618

(2) Nothing in any rule adopted under division (H) of this 619  
section shall be construed to limit the ability of the secretary 620  
of state to follow or adopt, or to preclude ~~him~~ the secretary of 621  
state from following or adopting, any guidelines proposed by the 622  
federal ~~elections~~ election commission ~~or~~, any entity authorized by 623  
the federal ~~elections~~ election commission to propose guidelines, 624  
the election assistance commission, or any entity authorized by 625  
the election assistance commission to propose guidelines. 626

(3) ~~As used in division (H) of this section, "source code"~~ 627  
~~does not include variable codes created for specific elections.~~ 628

(a) Before the initial certification of any direct recording 629  
electronic voting machine with a voter verified paper audit trail, 630  
and as a condition for the continued certification and use of 631  
those machines, the secretary of state shall establish, by rule, 632  
standards for the certification of those machines. Those standards 633  
shall include, but are not limited to, all of the following: 634

(i) A definition of a voter verified paper audit trail as a 635  
paper record of the voter's choices that is verified by the voter 636  
prior to the casting of the voter's ballot and that is securely 637  
retained by the board of elections; 638

(ii) Requirements that the voter verified paper audit trail 639  
shall not be retained by any voter and shall not contain 640

individual voter information;

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(iii) A prohibition against the production by any direct  
recording electronic voting machine of anything that legally could  
be removed by the voter from the polling place, such as a receipt  
or voter confirmation;

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(iv) A requirement that paper used in producing a voter  
verified paper audit trail be sturdy, clean, and resistant to  
degradation.

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(v) A requirement that the voter verified paper audit trail  
shall be capable of being optically scanned for the purpose of  
conducting a recount or other audit of the voting machine and  
shall be readable in a manner that makes the voter's ballot  
choices obvious to the voter without the use of computer or  
electronic codes.

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(b) The secretary of state, by rule adopted under Chapter  
119. of the Revised Code, may waive the requirement under division  
(H)(3)(a)(v) of this section, if the secretary of state determines  
that the requirement is cost prohibitive.

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**Sec. 3506.06.** No marking device shall be approved by the  
board of voting machine examiners or certified by the secretary of  
state, or be purchased, rented, or otherwise acquired, or used,  
unless it fulfills the following requirements:

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(A) It shall permit and require voting in absolute secrecy,  
and shall be so constructed that no person can see or know for  
whom any other elector has voted or is voting, except an elector  
who is assisting a voter as prescribed by section 3505.24 of the  
Revised Code.

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(B) It shall permit each elector to vote at any election for  
all persons and offices for whom and for which ~~he~~ the elector is  
lawfully entitled to vote, whether or not the name of any such

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person appears on a ballot as a candidate; to vote for as many 671  
persons for an office as ~~he~~ the elector is entitled to vote for; 672  
and to vote for or against any question upon which ~~he~~ the elector 673  
is entitled to vote. 674

(C) It shall permit each elector to write in the names of 675  
persons for whom ~~he~~ the elector desires to vote, whose names do 676  
not appear upon the ballot, if such write-in candidates are 677  
permitted by law. 678

(D) It shall permit each elector, at all presidential 679  
elections, by one punch or mark to vote for candidates of one 680  
party for president, vice president, and presidential electors. 681

(E) It shall be durably constructed of material of good 682  
quality in a neat and ~~workmanlike~~ workerlike manner, and in form 683  
~~which~~ that shall make it safely transportable. 684

(F) It shall be so constructed that a voter may readily learn 685  
the method of operating it and may expeditiously cast ~~his~~ the 686  
voter's vote for all candidates of ~~his~~ the voter's choice. 687

(G) It shall not provide to a voter any type of receipt or 688  
voter confirmation that the voter legally may retain after leaving 689  
the polling place. 690

**Sec. 3506.10.** No voting machine shall be approved by the 691  
board of voting machine examiners or certified by the secretary of 692  
state, or be purchased, rented, or otherwise acquired, or used, 693  
except when specifically allowed for experimental use, as provided 694  
in section 3506.04 of the Revised Code, unless it fulfills the 695  
following requirements: 696

(A) It shall permit and require voting in absolute secrecy, 697  
and shall be so constructed that no person can see or know for 698  
whom any other elector has voted or is voting, except an elector 699  
who is assisting a voter as prescribed by section 3505.24 of the 700

Revised Code. 701

(B) It shall permit each elector to vote at any election for 702  
all persons and offices for whom and for which ~~he~~ the elector is 703  
lawfully entitled to vote, whether or not the name of any such 704  
person appears on a ballot label as a candidate; to vote for as 705  
many persons for an office as ~~he~~ the elector is entitled to vote 706  
for; and to vote for or against any question upon which ~~he~~ the 707  
elector is entitled to vote. 708

(C) It shall preclude each elector from voting for any 709  
candidate or upon any question for whom or upon which ~~he~~ the 710  
elector is not entitled to vote, from voting for more persons for 711  
any office than ~~he~~ the elector is entitled to vote for, and from 712  
voting for any candidates for the same office or upon any question 713  
more than once. 714

(D) It shall permit each voter to deposit, write in, or 715  
affix, upon devices provided for that purpose, ballots containing 716  
the names of persons for whom ~~he~~ the voter desires to vote, whose 717  
names do not appear upon the voting machine. ~~Such~~ Those devices 718  
shall be susceptible of identification as to party affiliations 719  
when used at a primary election. 720

(E) It shall permit each elector to change ~~his~~ the elector's 721  
vote for any candidate or upon any question appearing upon the 722  
ballot labels, up to the time ~~he~~ the elector starts to register 723  
~~his~~ the elector's vote. 724

(F) It shall permit each elector, at all presidential 725  
elections, by one device to vote for candidates of one party for 726  
president, vice-president, and presidential electors. 727

(G) It shall be capable of adjustment by election officers so 728  
as to permit each elector, at a primary election, to vote only for 729  
the candidates of the party with which ~~he~~ the elector has declared 730  
~~his~~ the elector's affiliation and shall preclude ~~him~~ the elector 731

from voting for any candidate seeking nomination by any other 732  
political party; and to vote for the candidates for nonpartisan 733  
nomination or election. 734

(H) It shall have separate voting devices for candidates and 735  
questions, which shall be arranged in separate rows or columns. It 736  
shall be so arranged that one or more adjacent rows or columns may 737  
be assigned to the candidates of each political party at primary 738  
elections. 739

(I) It shall have a counter, or other device, the register of 740  
which is visible from the outside of the machine, and which will 741  
show at any time during the voting the total number of electors 742  
who have voted; and also a protective counter, or other device, 743  
the register of which cannot be reset, which will record the 744  
cumulative total number of movements of the internal counters. 745

(J) It shall be provided with locks and seals by the use of 746  
which, immediately after the polls are closed or the operation of 747  
the machine for an election is completed, no further changes to 748  
the internal counters can be allowed. 749

(K) It shall have the capacity to contain the names of 750  
candidates constituting the tickets of at least five political 751  
parties, and independent groups and such number of questions not 752  
exceeding fifteen as the secretary of state shall specify. 753

(L) It shall be durably constructed of material of good 754  
quality in a neat and ~~workmanlike~~ workerlike manner, and in form 755  
~~which~~ that shall make it safely transportable. 756

(M) It shall be so constructed that a voter may readily learn 757  
the method of operating it, may expeditiously cast ~~his~~ a vote for 758  
all candidates of ~~his~~ the voter's choice, and when operated 759  
properly shall register and record correctly and accurately every 760  
vote cast. 761

(N) It shall be provided with a screen, hood, or curtain, 762

which will conceal the voter while voting. During the voting, it 763  
shall preclude every person from seeing or knowing the number of 764  
votes registered for any candidate or question and from tampering 765  
with any of the internal counters. 766

(O) It shall not provide to a voter any type of receipt or 767  
voter confirmation that the voter legally may retain after leaving 768  
the polling place. 769

(P) On and after the first federal election that occurs after 770  
January 1, 2006, unless required sooner by the Help America Vote 771  
Act of 2002, if the voting machine is a direct recording 772  
electronic voting machine, it shall include a voter verified paper 773  
audit trail. 774

Before any voting machine is purchased, rented, or otherwise 775  
acquired, or used, the person or corporation owning or 776  
manufacturing ~~such~~ that machine or having the legal right to 777  
control the use of ~~the~~ that machine shall give an adequate 778  
guarantee in writing and post a bond in an amount sufficient to 779  
cover the cost of any recount or new election resulting from or 780  
directly related to the use or malfunction of the equipment, 781  
accompanied by satisfactory surety, all as determined by the 782  
secretary of state, with the board of county commissioners, 783  
guaranteeing and securing that ~~such~~ those machines have been and 784  
continue to be certified by the secretary of state in accordance 785  
with section 3506.05 of the Revised Code, comply fully with the 786  
requirements of this section, and will correctly, accurately, and 787  
continuously register and record every vote cast, and further 788  
guaranteeing ~~such~~ those machines against defects in ~~workmanship~~ 789  
workmanship and materials for a period of five years from the date 790  
of their acquisition ~~thereof~~. 791

Sec. 3506.17. There is hereby created in the state treasury 792  
the county electronic voting machine maintenance fund. All moneys 793

received pursuant to the Help America Vote Act of 2002 that are  
not approved for release by the controlling board as of the first  
federal election that occurs after January 1, 2006, shall be  
deposited in the state treasury to the credit of the fund. The  
secretary of state shall adopt rules for the fair and equitable  
distribution of moneys credited to the fund. Moneys credited to  
the fund shall be expended for the purposes for which those moneys  
were received under the Help America Vote Act of 2002 and may only  
be expended pursuant to a plan approved by the controlling board.

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**Sec. 3506.18.** (A) For any recount of an election in which  
ballots are cast using a direct recording electronic voting  
machine with a voter verified paper audit trail, the voter  
verified paper audit trail shall serve as the official ballot to  
be recounted.

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(B) Voter verified paper audit trails shall be preserved in  
the same manner and for the same time period as paper ballots are  
preserved under section 3505.31 of the Revised Code.

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**Sec. 3506.19.** On and after the first federal election that  
occurs after January 1, 2006, unless required sooner by the Help  
America Vote Act of 2002, each polling location shall have  
available for use at all elections at least one direct recording  
electronic voting machine that is accessible for individuals with  
disabilities, including nonvisual accessibility for the blind and  
visually impaired, in a manner that provides the same opportunity  
for access and participation, including privacy and independence,  
as for other voters.

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**Sec. 3509.07.** If election officials find that the statement  
accompanying an absent voter's ballot or absent voter's  
presidential ballot is insufficient, that the signatures do not

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correspond with the person's registration signature, that the 823  
applicant is not a qualified elector in the precinct, that the 824  
ballot envelope contains more than one ballot of any one kind, or 825  
any voted ballot that the elector is not entitled to vote,<sup>7</sup> or 826  
that Stub A is detached from the absent voter's ballot or absent 827  
voter's presidential ballot, the vote shall not be accepted or 828  
counted. ~~Whenever it appears to the election officials by~~ 829  
~~sufficient proof that any elector who has marked and forwarded the~~ 830  
~~elector's ballot as provided in section 3509.05 of the Revised~~ 831  
~~Code has died, the ballot of the deceased voter shall not be~~ 832  
~~counted.~~ The vote of any absent voter may be challenged for cause 833  
in the same manner as other votes are challenged, and the election 834  
officials shall determine the legality of that ballot. Every 835  
ballot not counted shall be indorsed on its back "Not Counted" 836  
with the reasons the ballot was not counted, and shall be enclosed 837  
and returned to or retained by the board of elections along with 838  
the contested ballots. 839

**Sec. 3513.052.** (A) No person shall seek nomination or 840  
election to any of the following offices or positions at the same 841  
election by filing a declaration of candidacy and petition, a 842  
declaration of intent to be a write-in candidate, or a nominating 843  
petition, or by becoming a candidate through party nomination in a 844  
primary election, or by the filling of a vacancy under section 845  
3513.30 or 3513.31 of the Revised Code: 846

(1) Two or more state offices; 847

(2) Two or more county offices; 848

(3) A state office and a county office; 849

(4) Any combination of two or more municipal or township 850  
offices, positions as a member of a city, local, or exempted 851  
village board of education, or positions as a member of a 852

governing board of an educational service center. 853

(B) The secretary of state or a board of elections shall not 854  
accept for filing a declaration of candidacy and petition, a 855  
declaration of intent to be a write-in candidate, or a nominating 856  
petition of a person seeking to become a candidate if that person, 857  
for the same election, has already filed a declaration of 858  
candidacy, a declaration of intent to be a write-in candidate, or 859  
a nominating petition, or has become a candidate through party 860  
nomination at a primary election or by the filling of a vacancy 861  
under section 3513.30 or 3513.31 of the Revised Code for: 862

(1) Any state or county office, if the declaration of 863  
candidacy, declaration of intent to be a write-in candidate, or 864  
nominating petition is for a state or county office; 865

(2) Any municipal or township office, or for member of a 866  
city, local, or exempted village board of education, or for member 867  
of a governing board of an educational service center, if the 868  
declaration of candidacy, declaration of intent to be a write-in 869  
candidate, or nominating petition is for a municipal or township 870  
office, or for member of a city, local, or exempted village board 871  
of education, or for member of a governing board of an educational 872  
service center. 873

(C)(1) If the secretary of state determines, before the day 874  
of the primary election, that a person is seeking nomination to 875  
more than one office at that election in violation of division (A) 876  
of this section, the secretary of state shall do one of the 877  
following: 878

(a) If each office or the district for each office for which 879  
the person is seeking nomination is wholly within a single county, 880  
the secretary of state shall notify the board of elections of that 881  
county. The board then shall determine the date on which the 882  
person first sought to become a candidate for each of those 883

offices by filing a declaration of candidacy or a declaration of 884  
intent to be a write-in candidate or by the filling of a vacancy 885  
under section 3513.30 of the Revised Code. The board shall vote 886  
promptly to disqualify that person as a candidate for each office 887  
for which the person sought to become a candidate after the date 888  
on which the person first sought to become a candidate for any of 889  
those offices. If the board determines that the person sought to 890  
become a candidate for more than one of those offices on the same 891  
date, the board shall vote promptly to disqualify that person as a 892  
candidate for each office that would be listed on the ballot below 893  
the highest office for which that person seeks nomination, 894  
according to the ballot order prescribed under section 3505.03 of 895  
the Revised Code. 896

(b) If one or more of the offices for which the person is 897  
seeking nomination is a state office or an office with a district 898  
larger than a single county, the secretary of state shall 899  
determine the date on which the person first sought to become a 900  
candidate for each of those offices by filing a declaration of 901  
candidacy or a declaration of intent to be a write-in candidate or 902  
by the filling of a vacancy under section 3513.30 of the Revised 903  
Code. The secretary of state shall order the board of elections of 904  
each county in which the person is seeking to appear on the ballot 905  
to disqualify that person as a candidate for each office for which 906  
the person sought to become a candidate after the date on which 907  
the person first sought to become a candidate for any of those 908  
offices. If the secretary of state determines that the person 909  
sought to become a candidate for more than one of those offices on 910  
the same date, the secretary of state shall order the board of 911  
elections of each county in which the person is seeking to appear 912  
on the ballot to disqualify that person as a candidate for each 913  
office that would be listed on the ballot below the highest office 914  
for which that person seeks nomination, according to the ballot 915  
order prescribed under section 3505.03 of the Revised Code. Each 916

board of elections so notified shall vote promptly to disqualify 917  
the person as a candidate in accordance with the order of the 918  
secretary of state. 919

(2) If a board of elections determines, before the day of the 920  
primary election, that a person is seeking nomination to more than 921  
one office at that election in violation of division (A) of this 922  
section, the board shall do one of the following: 923

(a) If each office or the district for each office for which 924  
the person is seeking nomination is wholly within that county, the 925  
board shall determine the date on which the person first sought to 926  
become a candidate for each of those offices by filing a 927  
declaration of candidacy or a declaration of intent to be a 928  
write-in candidate or by the filling of a vacancy under section 929  
3513.30 of the Revised Code. The board shall vote promptly to 930  
disqualify that person as a candidate for each office for which 931  
the person sought to become a candidate after the date on which 932  
the person first sought to become a candidate for any of those 933  
offices. If the board determines that the person sought to become 934  
a candidate for more than one of those offices on the same date, 935  
the board shall vote promptly to disqualify that person as a 936  
candidate for each office that would be listed on the ballot below 937  
the highest office for which that person seeks nomination, 938  
according to the ballot order prescribed under section 3505.03 of 939  
the Revised Code. 940

(b) If one or more of the offices for which the person is 941  
seeking nomination is a state office or an office with a district 942  
larger than a single county, the board shall notify the secretary 943  
of state. The secretary of state then shall determine the date on 944  
which the person first sought to become a candidate for each of 945  
those offices by filing a declaration of candidacy or a 946  
declaration of intent to be a write-in candidate or by the filling 947  
of a vacancy under section 3513.30 of the Revised Code. The 948

secretary of state shall order the board of elections of each 949  
county in which the person is seeking to appear on the ballot to 950  
disqualify that person as a candidate for each office for which 951  
the person sought to become a candidate after the date on which 952  
the person first sought to become a candidate for any of those 953  
offices. If the secretary of state determines that the person 954  
sought to become a candidate for more than one of those offices on 955  
the same date, the secretary of state shall order the board of 956  
elections of each county in which the person is seeking to appear 957  
on the ballot to disqualify that person as a candidate for each 958  
office that would be listed on the ballot below the highest office 959  
for which that person seeks nomination, according to the ballot 960  
order prescribed under section 3505.03 of the Revised Code. Each 961  
board of elections so notified shall vote promptly to disqualify 962  
the person as a candidate in accordance with the order of the 963  
secretary of state. 964

(D)(1) If the secretary of state determines, after the day of 965  
the primary election and before the day of the general election, 966  
that a person is seeking election to more than one office at that 967  
election in violation of division (A) of this section, the 968  
secretary of state shall do one of the following: 969

(a) If each office or the district for each office for which 970  
the person is seeking election is wholly within a single county, 971  
the secretary of state shall notify the board of elections of that 972  
county. The board then shall determine the offices for which the 973  
person seeks to appear as a candidate on the ballot. The board 974  
shall vote promptly to disqualify that person as a candidate for 975  
each office that would be listed on the ballot below the highest 976  
office for which that person seeks election, according to the 977  
ballot order prescribed under section 3505.03 of the Revised Code. 978  
If the person sought nomination at a primary election and has not 979  
yet been issued a certificate of nomination, the board shall not 980

issue that certificate for that person for any office that would 981  
be listed on the ballot below the highest office for which that 982  
person seeks election, according to the ballot order prescribed 983  
under section 3505.03 of the Revised Code. 984

(b) If one or more of the offices for which the person is 985  
seeking election is a state office or an office with a district 986  
larger than a single county, the secretary of state shall promptly 987  
investigate and determine the offices for which the person seeks 988  
to appear as a candidate on the ballot. The secretary of state 989  
shall order the board of elections of each county in which the 990  
person is seeking to appear on the ballot to disqualify that 991  
person as a candidate for each office that would be listed on the 992  
ballot below the highest office for which that person seeks 993  
election, according to the ballot order prescribed under section 994  
3505.03 of the Revised Code. Each board of elections so notified 995  
shall vote promptly to disqualify the person as a candidate in 996  
accordance with the order of the secretary of state. If the person 997  
sought nomination at a primary election and has not yet been 998  
issued a certificate of nomination, the board shall not issue that 999  
certificate for that person for any office that would be listed on 1000  
the ballot below the highest office for which that person seeks 1001  
election, according to the ballot order prescribed under section 1002  
3505.03 of the Revised Code. 1003

(2) If a board of elections determines, after the day of the 1004  
primary election and before the day of the general election, that 1005  
a person is seeking election to more than one office at that 1006  
election in violation of division (A) of this section, the board 1007  
of elections shall do one of the following: 1008

(a) If each office or the district for each office for which 1009  
the person is seeking election is wholly within that county, the 1010  
board shall determine the offices for which the person seeks to 1011  
appear as a candidate on the ballot. The board shall vote promptly 1012

to disqualify that person as a candidate for each office that 1013  
would be listed on the ballot below the highest office for which 1014  
that person seeks election, according to the ballot order 1015  
prescribed under section 3505.03 of the Revised Code. If the 1016  
person sought nomination at a primary election and has not yet 1017  
been issued a certificate of nomination, the board shall not issue 1018  
that certificate for that person for any office that would be 1019  
listed on the ballot below the highest office for which that 1020  
person seeks election, according to the ballot order prescribed 1021  
under section 3505.03 of the Revised Code. 1022

(b) If one or more of the offices for which the person is 1023  
seeking election is a state office or an office with a district 1024  
larger than a single county, the board shall notify the secretary 1025  
of state. The secretary of state promptly shall investigate and 1026  
determine the offices for which the person seeks to appear as a 1027  
candidate on the ballot. The secretary of state shall order the 1028  
board of elections of each county in which the person is seeking 1029  
to appear on the ballot to disqualify that person as a candidate 1030  
for each office that would be listed on the ballot below the 1031  
highest office for which that person seeks election, according to 1032  
the ballot order prescribed under section 3505.03 of the Revised 1033  
Code. Each board of elections so notified shall vote promptly to 1034  
disqualify the person as a candidate in accordance with the order 1035  
of the secretary of state. If the person sought nomination at a 1036  
primary election and has not yet been issued a certificate of 1037  
nomination, the board shall not issue that certificate for that 1038  
person for any office that would be listed on the ballot below the 1039  
highest office for which that person seeks election, according to 1040  
the ballot order prescribed under section 3505.03 of the Revised 1041  
Code. 1042

(E) When a person is disqualified as a candidate under 1043  
division (C) or (D) of this section, that person's name shall not 1044

appear on the ballots for any office for which that person has 1045  
been disqualified as a candidate. If the ballots have already been 1046  
prepared, the board of elections shall remove the name of the 1047  
disqualified candidate from the ballots to the extent practicable 1048  
in the time remaining before the election and according to the 1049  
directions of the secretary of state. If the name is not removed 1050  
from the ballots before the day of the election, the votes for the 1051  
disqualified candidate are void and shall not be counted. 1052

(F) Any vacancy created by the disqualification of a person 1053  
as a candidate under division (C) or (D) of this section may be 1054  
filled in the manner provided for in sections 3513.30 and 3513.31 1055  
of the Revised Code. 1056

~~(G) Nothing in this section or section 3513.04, 3513.041,~~ 1057  
~~3513.05, 3513.251, 3513.253, 3513.254, 3513.255, 3513.257,~~ 1058  
~~3513.259, or 3513.261 of the Revised Code prohibits, and the~~ 1059  
~~secretary of state or a board of elections shall not disqualify, a~~ 1060  
~~person from being a candidate to fill a vacant office as otherwise~~ 1061  
~~provided by law.~~ 1062

~~(H)~~ Nothing in this section or section 3513.04, 3513.041, 1063  
3513.05, 3513.251, 3513.253, 3513.254, 3513.255, 3513.257, 1064  
3513.259, or 3513.261 of the Revised Code prohibits, and the 1065  
secretary of state or a board of elections shall not disqualify, a 1066  
person from being a candidate for an office, if that person timely 1067  
withdraws as a candidate for any offices specified in division (A) 1068  
of this section for which that person first sought to become a 1069  
candidate by filing a declaration of candidacy and petition, a 1070  
declaration of intent to be a write-in candidate, or a nominating 1071  
petition, by party nomination in a primary election, or by the 1072  
filling of a vacancy under section 3513.30 or 3513.31 of the 1073  
Revised Code. 1074

~~(I)~~(H) As used in this section: 1075

(1) "State office" means the offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, member of the general assembly, chief justice of the supreme court, and justice of the supreme court.

(2) "Timely withdraws" means either of the following:

(a) Withdrawing as a candidate before the applicable deadline for filing a declaration of candidacy, declaration of intent to be a write-in candidate, or nominating petition for the subsequent office for which the person is seeking to become a candidate at the same election;

(b) Withdrawing as a candidate before the applicable deadline for the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code, if the person is seeking to become a candidate for a subsequent office at the same election under either of those sections.

**Sec. 3517.109.** (A) As used in this section:

(1) "Candidate" has the same meaning as in section 3517.01 of the Revised Code but includes only candidates for the offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, and member of the general assembly.

(2) "Statewide candidate" means the joint candidates for the offices of governor and lieutenant governor or a candidate for the office of secretary of state, auditor of state, treasurer of state, attorney general, and member of the state board of education.

(3) "Senate candidate" means a candidate for the office of state senator.

(4) "House candidate" means a candidate for the office of

state representative. 1106

(5) "State office" means the offices of governor, lieutenant 1107  
governor, secretary of state, auditor of state, treasurer of 1108  
state, attorney general, member of the state board of education, 1109  
and member of the general assembly. 1110

(6) "Aggregate contribution" means the total of all 1111  
contributions from a contributor during the pre-filing period. 1112

(7) "Allowable aggregate contribution" means all of the 1113  
following: 1114

(a) In the case of a contribution from a contributor whose 1115  
contributions are subject to the contribution limits described in 1116  
~~divisions~~ division (B)(1), (2), (3), (6)(a), or (7) of section 1117  
3517.102 of the Revised Code, that portion of the amount of the 1118  
contributor's aggregate contribution that does not exceed the 1119  
preprimary contribution limit applicable to that contributor. 1120

(b) In the case of a contribution or contributions from a 1121  
contributor whose contributions are not subject to the 1122  
contribution limits described in divisions (B)(1), (2), (3), 1123  
(6)(a), or (7) of section 3517.102 of the Revised Code, the total 1124  
of the following: 1125

(i) That portion of the aggregate contribution that was 1126  
received as in-kind services; 1127

(ii) That portion of the aggregate contribution that was 1128  
received as cash and does not exceed the applicable preprimary 1129  
cash transfer or contribution limits described in division 1130  
(B)(6)(b) of section 3517.102 of the Revised Code. 1131

(8) "Excess aggregate contribution" means, for each 1132  
contributor, the amount by which that contributor's aggregate 1133  
contribution exceeds that contributor's allowable aggregate 1134  
contribution. 1135

(9) "Pre-filing period" means the period of time ending on 1136  
the day that the candidacy petitions are due for the state office 1137  
for which the candidate has filed and beginning on the latest date 1138  
of the following: 1139

(a) The first day of January of the year following the 1140  
general election in which that state office was last on the 1141  
ballot; 1142

(b) The first day of January of the year following the 1143  
general election in which the candidate was last a candidate for 1144  
any office; 1145

(c) The first day of the month following the primary election 1146  
in which the candidate was last a candidate for any office; 1147

~~(d) The date of the primary election held in 1996.~~ 1148

(10) "Filing date" means the last date on which a candidacy 1149  
petition may be filed for an office. 1150

(11) "Applicable carry-in limit" means thirty-five thousand 1151  
dollars if the candidate is a house candidate or a candidate for 1152  
the state board of education, one hundred thousand dollars if the 1153  
candidate is a senate candidate, and two hundred thousand dollars 1154  
if the candidate is a statewide candidate other than a candidate 1155  
for the state board of education. 1156

(12) "Campaign asset" means prepaid, purchased, or donated 1157  
assets available to the candidate on the date of the filing 1158  
deadline for the office the candidate is seeking that will be 1159  
consumed or depleted in the course of the candidate's election 1160  
campaign, including, but not limited to, postage, prepaid rent for 1161  
campaign headquarters, prepaid radio, television, and newspaper 1162  
advertising, and other prepaid consulting and personal services. 1163

(13) "Permitted funds" means the sum of the following: 1164

(a) The total of the allowable aggregate contribution of each 1165

contributor;	1166
(b) The applicable carry-in limit.	1167
(14) "Excess funds" means the amount by which the sum of the total cash on hand and total reported campaign assets exceeds permitted funds.	1168 1169 1170
<u>(15) "Covered candidate" means both of the following:</u>	1171
<u>(a) A candidate who, during the pre-filing period, accepts or has a campaign committee that accepts contributions on the candidate's behalf for the purpose of nominating or electing the candidate to any office not subject to the contribution limits prescribed in section 3517.102 of the Revised Code;</u>	1172 1173 1174 1175 1176
<u>(b) A person who, during the pre-filing period, accepts or has a campaign committee that accepts contributions on the person's behalf prior to the person deciding upon or announcing the office for which the person will become a candidate for nomination or election.</u>	1177 1178 1179 1180 1181
<del>(B)(1) Beginning in calendar year 1998 for house candidates and beginning in calendar year 2000 for senate candidates and statewide candidates and in each calendar year thereafter, each</del> <u>Each candidate who files for state office, not later than the filing date for that office, shall dispose of any excess funds and. Each covered candidate who files for state office, not later than the filing date for that office, shall dispose of any excess aggregate contributions.</u>	1182 1183 1184 1185 1186 1187 1188 1189
<del>(2) In calendar year 1998, each candidate who files for statewide office or state senate, not later than the filing date for that office, shall dispose of any excess aggregate contributions.</del>	1190 1191 1192 1193
(C) Any campaign committee that is required to dispose of excess funds or excess aggregate contributions under division (B)	1194 1195

of this section shall dispose of that excess amount or amounts by 1196  
doing any of the following: 1197

(1) Giving the amount to the treasurer of state for deposit 1198  
into the state treasury to the credit of the Ohio elections 1199  
commission fund; 1200

(2) Giving the amount to individuals who made contributions 1201  
to that campaign committee as a refund of all or part of their 1202  
contributions; 1203

(3) Giving the amount to a corporation that is exempt from 1204  
federal income taxation under subsection 501(a) and described in 1205  
subsection 501(c) of the Internal Revenue Code. 1206

(D) ~~No (1) Subject to division (D)(2) of this section, no~~ 1207  
~~candidate or covered~~ candidate shall appear on the ballot, even if 1208  
~~the candidate has been~~ certified to appear on the ballot, unless 1209  
the candidate's or covered candidate's campaign committee has 1210  
disposed of excess funds ~~and~~, excess aggregate contributions, or 1211  
both as required by divisions (B) and (C) of this section. 1212

(2) If the excess aggregate contributions accepted by a 1213  
covered candidate or a covered candidate's campaign committee 1214  
aggregate a total of less than five thousand dollars from all 1215  
contributors, that candidate shall not be prohibited from 1216  
appearing on the ballot under division (D)(1) of this section. 1217

(E)(1) The campaign committee of each candidate required to 1218  
dispose of excess funds ~~or excess aggregate contributions~~ under 1219  
this section shall file a report, on a form prescribed by the 1220  
secretary of state, with the official or board with which the 1221  
candidate is required to file statements under section 3517.11 of 1222  
the Revised Code. The report shall be filed by the seventh day 1223  
following the filing deadline for the office the candidate is 1224  
seeking, shall indicate the amount of excess funds ~~and the source~~ 1225  
~~and amount of each excess aggregate contribution~~ disposed of, and 1226

shall describe the manner in which the campaign committee disposed 1227  
of the excess ~~amounts~~ amount. 1228

(2) In addition to the information required to be included in 1229  
a report filed under division (E)(1) of this section, the campaign 1230  
committee of each covered candidate required to dispose of excess 1231  
aggregate contributions under this section shall include in that 1232  
report the source and amount of each excess aggregate contribution 1233  
disposed of and shall describe the manner in which the campaign 1234  
committee disposed of the excess amount. 1235

~~(F)(1) Beginning in calendar year 1998, each~~ Each campaign 1236  
committee of a candidate who has filed a declaration of candidacy 1237  
or a nominating petition for a state office, not later than seven 1238  
days after the date of the filing deadline for the office the 1239  
candidate is seeking, shall file a declaration of filing-day 1240  
finances, on a form prescribed by the secretary of state, with the 1241  
official or board with which the candidate is required to file 1242  
statements under section 3517.11 of the Revised Code. 1243

(2) A declaration of filing-day finances shall list all of 1244  
the following: 1245

(a) The amount of cash on hand in the candidate's campaign 1246  
fund on the date of the filing deadline for the office the 1247  
candidate is seeking. 1248

(b) The value and description of all campaign assets worth 1249  
five hundred dollars or more available to the candidate on the 1250  
date of the filing. Assets purchased by the campaign shall be 1251  
valued at actual cost, and in-kind contributions shall be valued 1252  
at market value. 1253

(c) The total of all aggregate contributions; 1254

(d) The total of all allowable aggregate contributions; 1255

~~(e) The total of all excess aggregate contributions;~~ 1256

~~(f) For each contributor, if any, for whom there is an excess  
aggregate contribution, the name, address, aggregate contribution,  
and excess aggregate contribution;~~ 1257  
1258  
1259

~~(g) The applicable carry-in limit, if any.~~ 1260

(3) In addition to the information required to be included in  
a report of filing-day finances filed under division (F)(1) of  
this section, the campaign committee of each covered candidate  
shall include both of the following in that report: 1261  
1262  
1263  
1264

(a) The total of all excess aggregate contributions; 1265

(b) For each contributor, if any, for whom there is an excess  
aggregate contribution, the name, address, aggregate contribution,  
and excess aggregate contribution. 1266  
1267  
1268

(G) A campaign committee of a candidate is not required to 1269  
file a declaration of filing-day finances under division (F) of 1270  
this section if all of the following apply: 1271

(1) The campaign committee has not accepted, during the 1272  
pre-filing period, any aggregate contribution greater than the 1273  
applicable amount. 1274

(2) The campaign committee had less than the carry-in amount 1275  
in cash on hand at the beginning of the pre-filing period. 1276

(3) The candidate files a declaration, on a form prescribed 1277  
by the secretary of state, with the official or board with which 1278  
the candidate is required to file statements under section 3517.11 1279  
of the Revised Code not later than seven days after the date of 1280  
the filing deadline for the office that candidate is seeking, 1281  
stating that the candidate's campaign committee has not accepted 1282  
aggregate contributions as described in division (G)(1) of this 1283  
section and has less than the carry-in amount in cash on hand as 1284  
described in division (G)(2) of this section. 1285

Sec. 3517.1010. (A) As used in this section:	1286
(1) "Aggregate contribution," "allowable aggregate contribution," "excess aggregate contribution," and "pre-filing period" have the same meanings as in section 3517.109 of the Revised Code.	1287 1288 1289 1290
(2) "Filing deadline" means the last date on which a candidacy petition may be filed for an office.	1291 1292
(3) "Campaign asset" means prepaid, purchased, or donated assets, goods, or services available to the candidate's campaign committee on the date specified in the filing required under division (F) of this section that will be consumed, depleted, or used in the course of the candidate's election campaign, including, but not limited to, postage, rent for any campaign office, radio, television, and newspaper advertising, and consulting and personal services.	1293 1294 1295 1296 1297 1298 1299 1300
(4) "Permitted funds" means one of the following:	1301
(a) In the case of a disposal of excess funds under division (B)(1) of this section, the sum of the primary carry-in amount and the product of both of the following:	1302 1303 1304
(i) The sum of the campaign committee's net cash on hand and the campaign committee's total reported campaign assets on the day of the primary election less the primary carry-in amount;	1305 1306 1307
(ii) The ratio of the sum of the allowable aggregate contributions of each contributor to the sum of all contributions received, during the period extending from the first day on which, in accordance with division (D) of section 3517.103 of the Revised Code, the contribution limitations prescribed in section 3517.102 of the Revised Code no longer apply to the campaign committee through the end of the primary election period.	1308 1309 1310 1311 1312 1313 1314
For the purposes of division (A)(4)(a) of this section, the	1315

allowable aggregate contribution of each contributor is calculated 1316  
as if the limitations on contributions prescribed in section 1317  
3517.102 of the Revised Code were in effect. 1318

As used in division (A)(4)(a) of this section, "primary 1319  
carry-in amount" is the sum of the campaign committee's cash on 1320  
hand and reported campaign assets as reported on the campaign 1321  
committee's declaration of no limits filed pursuant to division 1322  
(D) of section 3517.103 of the Revised Code. 1323

(b) In the case of a disposal of excess funds under division 1324  
(B)(5) of this section, the product of both of the following: 1325

(i) The sum of the cash on hand and reported campaign assets 1326  
at the end of the thirty-first day of December immediately 1327  
following the general election; 1328

(ii) The ratio of the sum of the allowable aggregate 1329  
contributions of each contributor and the general carry-in amount 1330  
to the sum of all contributions received during the general 1331  
election period and the general carry-in amount. 1332

For the purposes of division (A)(4)(b) of this section, when 1333  
a candidate has filed a declaration of no limits under division 1334  
(D)(2) of section 3517.103 of the Revised Code, the allowable 1335  
aggregate contribution calculated for each contributor is 1336  
calculated as if the limitations on contributions prescribed in 1337  
section 3517.102 of the Revised Code were in effect. 1338

As used in division (A)(4)(b) of this section, "general 1339  
carry-in amount" is the sum of the campaign committee's reported 1340  
campaign assets and net cash on hand as of the day of the primary 1341  
election, after the committee has disposed of excess funds under 1342  
division (B)(1) of this section, if required. "General election 1343  
period" has the same meaning as in section 3517.102 of the Revised 1344  
Code. 1345

(5) "Excess funds" means the amount by which the sum of the 1346

campaign committee's cash on hand on the date specified in the 1347  
filing required to be made under division (F) of this section and 1348  
total reported campaign assets exceeds permitted funds. 1349

(6) "Net cash on hand" means the cash on hand on the day of 1350  
the primary election less the sum of all debts and obligations 1351  
reported under division (F) of this section. 1352

(B)(1) Except as otherwise provided in division (G) of this 1353  
section, the campaign committee of any candidate who has filed a 1354  
declaration of no limits in accordance with division (D) of 1355  
section 3517.103 of the Revised Code, and to which the 1356  
contribution limitations prescribed in section 3517.102 of the 1357  
Revised Code no longer apply during a primary election period, 1358  
shall dispose of any excess funds not later than fourteen days 1359  
after the day on which the primary election was held. 1360

(2) The campaign committee of any candidate that has filed a 1361  
personal funds notice under division (C)(1) or (2) of section 1362  
3517.103 of the Revised Code shall, at the end of the primary 1363  
election period, do one of the following: 1364

(a) Return that portion of the personal funds remaining in 1365  
the candidate's campaign committee fund at the end of the primary 1366  
election period that are excess funds not later than fourteen days 1367  
after the day on which the primary election was held; 1368

(b) Retain the personal funds remaining in the candidate's 1369  
campaign committee fund at the end of the primary election period 1370  
and file a statement with the secretary of state declaring that 1371  
the campaign committee will retain those remaining personal funds 1372  
in the committee's campaign fund and indicating the amount of 1373  
remaining personal funds that would be characterized as excess 1374  
funds. 1375

(3) If a campaign committee elects to retain personal funds 1376  
pursuant to division (B)(2)(b) of this section, both of the 1377

following apply: 1378

(a) The amount characterized as excess funds is considered to 1379  
be an expenditure of personal funds for the purpose of determining 1380  
whether the amount of personal funds the campaign committee has 1381  
received under division (C)(1) or (2) of section 3517.103 of the 1382  
Revised Code during an election period exceeds the amounts 1383  
specified in those divisions. 1384

(b) The campaign committee is not a designated state campaign 1385  
committee for the purpose of making contributions to a legislative 1386  
campaign fund or to the state candidate fund of a state or county 1387  
political party. 1388

(4) Except as otherwise provided in division (G) of this 1389  
section, the campaign committee of any candidate that has expended 1390  
personal funds in excess of the amount specified in division 1391  
(C)(1) or (2) of section 3517.103 of the Revised Code shall 1392  
dispose of any excess funds not later than fourteen days after the 1393  
day on which the primary election is held or the thirty-first day 1394  
of December after the day on which the general election was held, 1395  
whichever is applicable, or choose to retain personal funds under 1396  
division (B)(2) of this section. The calculation of excess funds 1397  
under this division shall be made in the same manner that a 1398  
campaign committee is required to dispose of excess funds under 1399  
division (B)(1) or (5) of this section, whichever election period 1400  
is applicable. For the purposes of this division, the allowable 1401  
aggregate contribution of each contributor, including one or more 1402  
contributions from the candidate and from the candidate's spouse, 1403  
parents, children, sons-in-law, daughters-in-law, brothers, 1404  
sisters, grandparents, mothers-in-law, fathers-in-law, 1405  
brothers-in-law, sisters-in-law, or grandparents by marriage, is 1406  
calculated for that contributor as if the contribution limitations 1407  
prescribed by section 3517.102 of the Revised Code were in effect. 1408

(5) Except as otherwise provided in division (G) of this 1409

section, the campaign committee of any candidate to which, in  
accordance with division (D) of section 3517.103 of the Revised  
Code, the contribution limitations prescribed in section 3517.102  
of the Revised Code no longer apply during a general election  
period shall dispose of any excess funds not later than the  
thirty-first day of December after the day on which the general  
election was held.

(6) Notwithstanding ~~divisions~~ division (B)~~(1) and (2)~~ of  
section 3517.109 of the Revised Code, the amount of excess  
aggregate contributions required to be disposed of under ~~those~~  
~~divisions~~ that division by a candidate whose contribution  
limitations have been reimposed pursuant to division (D)(4) of  
section 3517.103 of the Revised Code is limited to no more than  
the sum of the following:

(a) The difference between the sum of the cash on hand and  
reported campaign assets on the date of the declaration of  
candidacy filing deadline, date of death, or date of withdrawal,  
whichever is applicable, less the sum of the cash on hand and  
reported campaign assets reported on the campaign committee's  
declaration of no limits under division (D)(2) of section 3517.103  
of the Revised Code;

(b) The sum of the aggregate excess contributions of all  
contributors made from the beginning of the primary election  
period to the day immediately preceding the day on which  
contribution limitations prescribed in section 3517.102 of the  
Revised Code became inapplicable pursuant to division (D)(1) of  
section 3517.103 of the Revised Code.

(C) Any campaign committee that is required to dispose of  
excess funds or excess aggregate contributions under division (B)  
of this section shall dispose of the excess amount or amounts in  
accordance with division (C) of section 3517.109 of the Revised

Code. 1441

(D)(1) Any candidate who knowingly fails to dispose of excess 1442  
funds or excess aggregate contributions as required by divisions 1443  
(B) and (C) of this section, except a candidate whose campaign 1444  
committee has been given a letter of substantial compliance as 1445  
provided for in division (D)(2) of this section, shall not appear 1446  
on the ballot, even if the candidate has been certified to appear 1447  
on the ballot. 1448

(2) The secretary of state shall, after initially examining 1449  
and reviewing any declaration provided for in division (F) of this 1450  
section and making a determination that a campaign committee has 1451  
substantially complied with the disposal requirements of division 1452  
(B) of this section, promptly issue to the candidate's campaign 1453  
committee a letter certifying that committee's substantial 1454  
compliance. 1455

(3) The campaign committee of a candidate for ~~statewide~~ state 1456  
office as defined in division (A) of section 3517.109 of the 1457  
Revised Code has not substantially complied with the disposal 1458  
requirements of division (B) of this section if, upon initial 1459  
review of a declaration filed pursuant to division (F) of this 1460  
section, it is discovered that the candidate's campaign committee 1461  
has failed to dispose of excess funds or excess aggregate 1462  
contributions totaling in the aggregate more than ten thousand 1463  
dollars. 1464

(4) The campaign committee of a candidate for member of the 1465  
general assembly has not substantially complied with the disposal 1466  
requirements of division (B) of this section if, upon initial 1467  
review of a declaration filed pursuant to division (F) of this 1468  
section, it is discovered that the candidate's campaign committee 1469  
has failed to dispose of excess funds or excess aggregate 1470  
contributions totaling in the aggregate more than twenty-five 1471  
hundred dollars. 1472

(5) Any campaign committee that has received a letter 1473  
indicating substantial compliance as provided for in division 1474  
(D)(2) of this section shall, within thirty days after receiving 1475  
such a letter, fully comply with the disposal requirements of 1476  
division (B) of this section. 1477

(E) When the campaign committee of a candidate files a 1478  
personal funds notice in accordance with division (C), or a 1479  
declaration of no limits in accordance with division (D), of 1480  
section 3517.103 of the Revised Code, the campaign committee of 1481  
each such candidate shall file in the case of a primary election 1482  
period a declaration of primary-day finances not later than 1483  
fourteen days after the day on which the primary election was 1484  
held, or shall file in the case of a general election period a 1485  
declaration of year-end finances not later than the last business 1486  
day of January of the next calendar year immediately following the 1487  
day on which the general election was held. 1488

(F) The declaration of primary-day finances and declaration 1489  
of year-end finances shall be filed on a form prescribed by the 1490  
secretary of state and shall list all of the following: 1491

(1) The amount of net cash on hand in the candidate's 1492  
campaign committee fund at the end of the day on which the primary 1493  
election was held or cash on hand on the thirty-first day of 1494  
December immediately following the day on which the general 1495  
election was held, whichever is appropriate; 1496

(2) In the case of a declaration of primary-day finances, any 1497  
debt or other obligation incurred by the committee during the 1498  
primary election period and related to the primary election of the 1499  
campaign committee's candidate; 1500

(3) The value and description of all campaign assets worth 1501  
five hundred dollars or more available to the candidate at the end 1502  
of the day on which the primary election was held or on the 1503

thirty-first day of December immediately following the day on 1504  
which the general election was held; 1505

(4) The total of all aggregate contributions received by the 1506  
candidate's campaign committee during the primary or general 1507  
election period; 1508

(5) The total of all allowable aggregate contributions 1509  
received by the candidate's campaign committee during the primary 1510  
or general election period, whichever is applicable. The allowable 1511  
aggregate contribution of each contributor shall be calculated as 1512  
if the contribution limitations prescribed by section 3517.102 of 1513  
the Revised Code were in effect. 1514

(6) A description of all excess funds and excess aggregate 1515  
contributions disposed of by the candidate's campaign committee in 1516  
accordance with division (B) of this section for that election. 1517

(G) The campaign committee of a candidate is not required to 1518  
dispose of excess funds or excess aggregate contributions under 1519  
division (B) of this section if both of the following apply: 1520

(1) The campaign committee has not accepted any aggregate 1521  
contribution greater than the amount applicable under ~~those~~ 1522  
~~divisions, excluding the amount of any contribution accepted~~ 1523  
~~before the day of the primary election held in 1996~~ that division. 1524

(2) The campaign committee files on a form, prescribed by the 1525  
secretary of state, with the official or board with which the 1526  
candidate is required to file statements under section 3517.11 of 1527  
the Revised Code, stating that the committee has not accepted 1528  
aggregate contributions as described in division (G)(1) of this 1529  
section. 1530

**Sec. 3519.16.** ~~If the~~ The circulator of any part-petition, the 1531  
committee interested ~~therein~~ in the petition, or any elector ~~files~~ 1532  
may file with the board of elections a protest against the board's 1533

findings made pursuant to section 3519.15 of the Revised Code, 1534  
~~then. Protests shall be in writing and shall specify reasons for~~ 1535  
~~the protest. Protests for all initiative and referendum petitions~~ 1536  
~~other than those to be voted on by electors throughout the entire~~ 1537  
~~state shall be filed not later than four p.m. of the sixty-fourth~~ 1538  
~~day before the day of the election. Once a protest is filed, the~~ 1539  
board shall proceed to establish the sufficiency or insufficiency 1540  
of the signatures and of the verification ~~thereof~~ of those 1541  
signatures in an action before the court of common pleas in the 1542  
county. ~~Such~~ The action ~~must~~ shall be brought within three days 1543  
after the protest ~~has been~~ is filed, and ~~the case it~~ shall be 1544  
heard forthwith by a judge of ~~such~~ that court, whose decision 1545  
shall be certified to the board. The signatures ~~which~~ that are 1546  
adjudged sufficient or the part-petitions ~~which~~ that are adjudged 1547  
properly verified shall be included with the others by the board, 1548  
and those found insufficient and all those part-petitions ~~which~~ 1549  
that are adjudged not properly verified shall not be included. ~~The~~ 1550

The properly verified part-petitions, together with the 1551  
report of the board, shall be returned to the secretary of state 1552  
not less than fifty days before the election, provided that, in 1553  
the case of an initiated law to be presented to the general 1554  
assembly, the boards shall promptly check and return the petitions 1555  
together with their report. The secretary of state shall notify 1556  
the ~~chairman~~ chairperson of the committee in charge of the 1557  
circulation as to the sufficiency or insufficiency of the petition 1558  
and the extent of the insufficiency. ~~If~~ 1559

If the petition is found insufficient because of an 1560  
insufficient number of valid signatures, ~~such~~ the committee shall 1561  
be allowed ten additional days after ~~such~~ the notification by the 1562  
secretary of state for the filing of additional signatures to ~~such~~ 1563  
the petition. The part-petitions of the supplementary petition 1564  
~~which~~ that appear to the secretary of state to be properly 1565

verified, upon their receipt ~~thereof~~ by the secretary of state, 1566  
shall forthwith be forwarded to the boards of the several counties 1567  
together with the part-petitions of the original petition ~~which~~ 1568  
that have been properly verified, ~~and~~. They shall be immediately 1569  
examined and passed upon as to the validity and sufficiency of the 1570  
signatures ~~thereon~~ on them by each of ~~such~~ the boards and returned 1571  
within five days to the secretary of state with the ~~boards'~~ report 1572  
of each board. No signature on a supplementary part-petition ~~which~~ 1573  
that is the same as a signature on an original part-petition shall 1574  
be counted. The number of signatures in both the original and 1575  
supplementary petitions, properly verified, shall be used by the 1576  
secretary of state in determining the total number of signatures 1577  
to the petition ~~which he~~ that the secretary of state shall record 1578  
and announce. If they are sufficient, ~~then such~~ the amendment, 1579  
proposed law, or law shall be placed on the ballot as required by 1580  
law. If the petition is found insufficient, the secretary of state 1581  
shall notify the committee in charge of the circulation of the 1582  
petition. 1583

**Sec. 4117.03.** (A) Public employees have the right to: 1584

(1) Form, join, assist, or participate in, or refrain from 1585  
forming, joining, assisting, or participating in, except as 1586  
otherwise provided in Chapter 4117. of the Revised Code, any 1587  
employee organization of their own choosing; 1588

(2) Engage in other concerted activities for the purpose of 1589  
collective bargaining or other mutual aid and protection; 1590

(3) Representation by an employee organization; 1591

(4) Bargain collectively with their public employers to 1592  
determine wages, hours, terms and other conditions of employment 1593  
and the continuation, modification, or deletion of an existing 1594  
provision of a collective bargaining agreement, and enter into 1595  
collective bargaining agreements; 1596

(5) Present grievances and have them adjusted, without the 1597  
intervention of the bargaining representative, as long as the 1598  
adjustment is not inconsistent with the terms of the collective 1599  
bargaining agreement then in effect and as long as the bargaining 1600  
representatives have the opportunity to be present at the 1601  
adjustment. 1602

(B) Persons on active duty or acting in any capacity as 1603  
members of the organized militia do not have collective bargaining 1604  
rights. 1605

(C) Nothing Except as provided in division (D) of this 1606  
section, nothing in Chapter 4117. of the Revised Code prohibits 1607  
public employers from electing to engage in collective bargaining, 1608  
to meet and confer, to hold discussions, or to engage in any other 1609  
form of collective negotiations with public employees who are not 1610  
subject to Chapter 4117. of the Revised Code pursuant to division 1611  
(C) of section 4117.01 of the Revised Code. 1612

(D) A public employer shall not engage in collective 1613  
bargaining or other forms of collective negotiations with the 1614  
employees of county boards of elections referred to in division 1615  
(C)(12) of section 4117.01 of the Revised Code. 1616

**Sec. 4301.323.** The electors of an election precinct may 1617  
exercise the privilege of local option on the sale of beer ~~and any~~ 1618  
~~intoxicating,~~ wine and mixed beverages, or spirituous liquor at a 1619  
particular location within the precinct if the petitioner for 1620  
local option election is one of the following: 1621

(A) An applicant for the issuance or transfer of a liquor 1622  
permit at, or to, a particular location within the precinct; 1623

(B) The holder of a liquor permit at a particular location 1624  
within the precinct; 1625

(C) A person who operates or seeks to operate a liquor agency 1626

store at a particular location within the precinct; 1627

(D) The designated agent for an applicant, liquor permit 1628  
holder, or liquor agency store described in division (A), (B), or 1629  
(C) of this section. 1630

The privilege conferred by this section is in addition to the 1631  
privilege conferred on the electors of precincts under section 1632  
4301.32, 4301.321, 4301.322, or 4305.14 of the Revised Code. 1633

**Sec. 4301.355.** (A) If a petition is filed under section 1634  
4301.333 of the Revised Code for the submission of the question or 1635  
questions set forth in this section, it shall be held in the 1636  
precinct as ordered by the board of elections under that section. 1637  
The expense of holding the election shall be charged to the 1638  
municipal corporation or township of which the precinct is a part. 1639

(B) At the election, one or more of the following questions, 1640  
as designated in a valid petition, shall be submitted to the 1641  
electors of the precinct: 1642

(1) "Shall the sale of ..... (insert beer, wine and 1643  
mixed beverages, or ~~intoxicating~~ spirituous liquor) be permitted 1644  
by ..... (insert name of applicant, liquor permit holder, or 1645  
liquor agency store, including trade or fictitious name under 1646  
which applicant for, or holder of, liquor permit or liquor agency 1647  
store either intends to do, or does, business at the particular 1648  
location), an ..... (insert "applicant for" or "holder of" or 1649  
"operator of") a ..... (insert class name of liquor permit or 1650  
permits followed by the words "liquor permit(s)" or, if 1651  
appropriate, the words "liquor agency store for the State of 1652  
Ohio"), who is engaged in the business of ..... (insert 1653  
general nature of the business in which applicant or liquor permit 1654  
holder is engaged or will be engaged in at the particular 1655  
location, as described in the petition) at ..... (insert 1656  
address of the particular location within the precinct as set 1657

forth in the petition) in this precinct?" 1658

(2) "Shall the sale of ..... (insert beer, wine and 1659  
mixed beverages, or ~~intoxicating~~ spirituous liquor) be permitted 1660  
for sale on Sunday between the hours of ..... (insert "ten 1661  
a.m. and midnight" or "one p.m. and midnight") by ..... 1662  
(insert name of applicant, liquor permit holder, or liquor agency 1663  
store, including trade or fictitious name under which applicant 1664  
for, or holder of, liquor permit or liquor agency store either 1665  
intends to do, or does, business at the particular location), an 1666  
..... (insert "applicant for a D-6 liquor permit," "holder of a 1667  
D-6 liquor permit," "applicant for or holder of an A-1-A, A-2, 1668  
C-1, C-2x, D-1, D-2x, D-3, D-3x, D-4, D-5, D-5b, D-5c, D-5e, D-5f, 1669  
D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 liquor permit," if only the 1670  
approval of beer sales is sought, or "liquor agency store") who is 1671  
engaged in the business of ..... (insert general nature of 1672  
the business in which applicant or liquor permit holder is engaged 1673  
or will be engaged in at the particular location, as described in 1674  
the petition) at ..... (insert address of the particular 1675  
location within the precinct) in this precinct?" 1676

(C) ~~If the sale of beer, wine and mixed beverages, or 1677  
intoxicating liquor has been approved at a particular location 1678  
within the precinct at a previous election held under this 1679  
section, the ballot also shall include the following statement:~~ 1680

~~"At a previous election held under section 4301.355 of the 1681  
Revised Code, the electors approved the sale of ..... (insert 1682  
beer, wine and mixed beverages, or intoxicating liquor, as 1683  
appropriate) at ..... (insert business name and address of 1684  
the particular location or locations within the precinct where 1685  
that sale has been approved at a previous election under section 1686  
4301.355 of the Revised Code)."~~ 1687

~~(D)~~ The board of elections shall furnish printed ballots at 1688  
the election as provided under section 3505.06 of the Revised 1689

Code, except that a separate ballot shall be used for the election 1690  
under this section. The question ~~and, if applicable, the statement~~ 1691  
set forth in this section shall be printed on each ballot, and the 1692  
board shall insert in the question ~~and statement~~ appropriate words 1693  
to complete ~~each~~ it. Votes shall be cast as provided under section 1694  
3505.06 of the Revised Code. 1695

**Sec. 4301.365.** (A) If a majority of the electors in a 1696  
precinct vote "yes" on questions (B)(1) and (2) as set forth in 1697  
section 4301.355 of the Revised Code, the sale of beer, wine and 1698  
mixed beverages, or ~~intoxicating~~ spirituous liquor, whichever was 1699  
the subject of the election, shall be allowed at the particular 1700  
location and for the use, and during the hours on Sunday, 1701  
specified in the questions under each permit applied for by the 1702  
petitioner or at the address listed for the liquor agency store, 1703  
subject only to this chapter and Chapter 4303. of the Revised 1704  
Code. Failure to continue to use the particular location for any 1705  
proposed or stated use set forth in the petition is grounds for 1706  
the denial of a renewal of the liquor permit under division (A) of 1707  
section 4303.271 of the Revised Code or is grounds for the 1708  
nonrenewal or cancellation of the liquor agency store contract by 1709  
the division of liquor control, except in the case where the 1710  
liquor permit holder or liquor agency store decides to cease the 1711  
sale of beer, wine and mixed beverages, or ~~intoxicating~~ spirituous 1712  
liquor, whichever was the subject of the election, on Sundays. 1713

(B) Except as otherwise provided in division (H) of this 1714  
section, if a majority of the electors in a precinct vote "yes" on 1715  
question (B)(1) and "no" on question (B)(2) as set forth in 1716  
section 4301.355 of the Revised Code, the sale of beer, wine and 1717  
mixed beverages, or ~~intoxicating~~ spirituous liquor, whichever was 1718  
the subject of the election, shall be allowed at the particular 1719  
location for the use specified in question (B)(1) of section 1720  
4301.355 of the Revised Code and under each permit applied for by 1721

the petitioner, except for a D-6 permit, subject only to this 1722  
chapter and Chapter 4303. of the Revised Code. 1723

(C) If a majority of the electors in a precinct vote "no" on 1724  
question (B)(1) as set forth in section 4301.355 of the Revised 1725  
Code, no sales of beer, wine and mixed beverages, or ~~intoxicating~~ 1726  
spirituous liquor, whichever was the subject of the election, 1727  
shall be allowed at the particular location for the use specified 1728  
in the petition during the period the election is in effect as 1729  
defined in section 4301.37 of the Revised Code. 1730

(D) If a majority of the electors in a precinct vote only on 1731  
question (B)(2) as set forth in section 4301.355 of the Revised 1732  
Code and that vote results in a majority "yes" vote, sales of 1733  
beer, wine and mixed beverages, or ~~intoxicating~~ spirituous liquor, 1734  
whichever was the subject of the election, shall be allowed at the 1735  
particular location for the use and during the hours specified in 1736  
the petition on Sunday during the period the election is in effect 1737  
as defined in section 4301.37 of the Revised Code. 1738

(E) Except as otherwise provided in division (H) of this 1739  
section, if a majority of the electors in a precinct vote only on 1740  
question (B)(2) as set forth in section 4301.355 of the Revised 1741  
Code and that vote results in a majority "no" vote, no sales of 1742  
beer, wine and mixed beverages, or ~~intoxicating~~ spirituous liquor, 1743  
whichever was the subject of the election, shall be allowed at the 1744  
particular location for the use and during the hours specified in 1745  
the petition on Sunday during the period the election is in effect 1746  
as defined in section 4301.37 of the Revised Code. 1747

(F) In case of elections in the same precinct for the 1748  
question or questions set forth in section 4301.355 of the Revised 1749  
Code and for a question or questions set forth in section 4301.35, 1750  
4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised 1751  
Code, the results of the election held on the question or 1752  
questions set forth in section 4301.355 of the Revised Code shall 1753

apply to the particular location notwithstanding the results of 1754  
the election held on the question or questions set forth in 1755  
section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 1756  
of the Revised Code. 1757

(G) Sections 4301.32 to 4301.41 of the Revised Code do not 1758  
prohibit the transfer of ownership of a permit that was issued to 1759  
a particular location as the result of an election held on sales 1760  
of beer, wine and mixed beverages, spirituous liquor, or 1761  
intoxicating liquor at that particular location as long as the 1762  
general nature of the business at that particular location 1763  
described in the petition for that election remains the same after 1764  
the transfer. 1765

(H) If question (B)(2) as set forth in section 4301.355 of 1766  
the Revised Code is submitted to the electors of a precinct 1767  
proposing to authorize the sale of beer, wine and mixed beverages, 1768  
or ~~intoxicating~~ spirituous liquor between the hours of ten a.m. 1769  
and midnight at a particular location at which the sale of beer, 1770  
wine and mixed beverages, spirituous liquor, or intoxicating 1771  
liquor is already allowed between the hours of one p.m. and 1772  
midnight and the question submitted is defeated, the sale of beer, 1773  
wine and mixed beverages, spirituous liquor, or intoxicating 1774  
liquor between the hours of one p.m. and midnight shall continue 1775  
at that particular location. 1776

**Section 2.** That existing sections 124.57, 3501.05, 3501.10, 1777  
3501.28, 3506.01, 3506.05, 3506.06, 3506.10, 3509.07, 3513.052, 1778  
3517.109, 3517.1010, 3519.16, 4117.03, 4301.323, 4301.355, and 1779  
4301.365 of the Revised Code are hereby repealed. 1780

**Section 3.** (A) As used in this section: 1781

(1) "Automatic tabulating equipment, "ballot," "direct 1782  
recording electronic voting machine," "marking device," "voter 1783

verified paper audit trail," and "voting machines" have the same 1784  
meanings as in section 3506.01 of the Revised Code. 1785

(2) "County originally scheduled to acquire voting machines 1786  
during the 2004 calendar year" means: 1787

(a) The following counties that are scheduled, pursuant to 1788  
the process outlined in the version of the Ohio state plan that 1789  
was published in the Federal Register on March 24, 2004, to 1790  
acquire voting machines, marking devices, or automatic tabulating 1791  
equipment for use in the August 2004 special election with funds 1792  
made available pursuant to the Help America Vote Act of 2002: 1793  
Adams, Auglaize, Brown, Carroll, Crawford, Delaware, Hardin, 1794  
Harrison, Henry, Logan, Medina, Mercer, Portage, Putnam, and 1795  
Trumbull; 1796

(b) The following counties that are scheduled, pursuant to 1797  
the process outlined in the version of the Ohio state plan that 1798  
was published in the Federal Register on March 24, 2004, to 1799  
acquire voting machines, marking devices, or automatic tabulating 1800  
equipment for use in the November 2004 general election with funds 1801  
made available pursuant to the Help America Vote Act of 2002: 1802  
Butler, Columbiana, Darke, Fairfield, Gallia, Huron, Jackson, 1803  
Lorain, Lucas, Madison, Morgan, Paulding, Richland, Tuscarawas, 1804  
Washington, and Williams. 1805

(3) "Help America Vote Act of 2002" means the "Help America 1806  
Vote Act of 2002," Public Law 107-252, 116 Stat. 1666. 1807

(4) "Ohio state plan" means the state plan prepared by the 1808  
Secretary of State and the state plan committee for the state of 1809  
Ohio pursuant to the Help America Vote Act of 2002. 1810

(B)(1)(a) If the board of elections of a county originally 1811  
scheduled to acquire voting machines during the 2004 calendar year 1812  
wishes to acquire voting machines, marking devices, or automatic 1813  
tabulating equipment for use during the 2004 calendar year 1814

according to the schedule proposed pursuant to the process 1815  
outlined in the version of the Ohio state plan that was published 1816  
in the Federal Register on March 24, 2004, with funds made 1817  
available pursuant to the Help America Vote Act of 2002, the board 1818  
may vote to reaffirm any prior decision made under that process to 1819  
so acquire and use voting machines, marking devices, or automatic 1820  
tabulating equipment at a meeting held within thirty days after 1821  
the effective date of this section. 1822

(b) If the board of elections of a county originally 1823  
scheduled to acquire voting machines during the 2004 calendar year 1824  
fails to vote on a decision under division (B)(1)(a) of this 1825  
section within thirty days after the effective date of this 1826  
section, the county shall not acquire voting machines, marking 1827  
devices, or automatic tabulating equipment for use during the 2004 1828  
calendar year with funds made available pursuant to the Help 1829  
America Vote Act of 2002. The Secretary of State shall not compel 1830  
the board of elections of a county originally scheduled to acquire 1831  
voting machines during the 2004 calendar year to vote to acquire 1832  
voting machines, marking devices, or automatic tabulating 1833  
equipment under division (B)(1)(a) of this section. 1834

(c) If the board of elections of a county originally 1835  
scheduled to acquire voting machines during the 2004 calendar year 1836  
votes to reaffirm a prior decision to acquire voting machines, 1837  
marking devices, or automatic tabulating equipment for use during 1838  
the 2004 calendar year with funds made available pursuant to the 1839  
Help America Vote Act of 2002 under division (B)(1)(a) of this 1840  
section, that county shall proceed with the acquisition of the 1841  
selected voting machines, marking devices, or automatic tabulating 1842  
equipment with those funds according to the process outlined in 1843  
the version of the Ohio state plan that was published in the 1844  
Federal Register on March 24, 2004. The Secretary of State shall 1845  
purchase the selected voting machines, marking devices, or 1846

automatic tabulating equipment for the county by acting as an 1847  
agent on behalf of the board of county commissioners of that 1848  
county. 1849

(2)(a) A county may acquire voting machines, marking devices, 1850  
or automatic tabulating equipment for use during the 2005 calendar 1851  
year pursuant to the process outlined in the version of the Ohio 1852  
state plan that was published in the Federal Register on March 24, 1853  
2004, prior to the certification of direct recording electronic 1854  
voting machines with a voter verified paper audit trail in 1855  
accordance with division (E)(1) of this section if both of the 1856  
following apply: 1857

(i) The county did not acquire voting machines, marking 1858  
devices, or automatic tabulating equipment under division (B)(1) 1859  
of this section for use during the 2004 calendar year. 1860

(ii) The county has selected, through the process outlined in 1861  
the version of the Ohio state plan that was published in the 1862  
Federal Register on March 24, 2004, voting machines, marking 1863  
devices, or automatic tabulating equipment other than direct 1864  
recording electronic voting machines as the primary voting system 1865  
to be used in the county. This division does not preclude the 1866  
acquisition of direct recording electronic voting machines to the 1867  
extent that the county is scheduled to acquire only one direct 1868  
recording electronic voting machine for each polling place as 1869  
required by the Help America Vote Act of 2002. 1870

(b) If a county chooses to acquire voting machines, marking 1871  
devices, or automatic tabulating equipment under division 1872  
(B)(2)(a) of this section, the Secretary of State shall purchase 1873  
the selected voting machines, marking devices, or automatic 1874  
tabulating equipment for the county by acting as an agent on 1875  
behalf of the board of county commissioners of that county. 1876

(C) It is the intent of the General Assembly that the state 1877

of Ohio pay, with funds made available pursuant to the Help 1878  
America Vote Act of 2002 or through an appropriation of state 1879  
capital funds, for any additional costs a county incurs after the 1880  
initial purchase of direct recording electronic voting machines, 1881  
to upgrade, retrofit, or otherwise equip those voting machines 1882  
with a voter verified paper audit trail if the county acquires the 1883  
voting machines in any of the following manners: 1884

(1) The county purchases the direct recording electronic 1885  
voting machines before the effective date of this section using 1886  
county funds and is entitled to reimbursement for that purchase 1887  
under the Help America Vote Act of 2002. 1888

(2) The county acquires the direct recording electronic 1889  
voting machines for use during the 2004 calendar year under 1890  
division (B)(1) of this section. 1891

(3) The county acquires voting machines, marking devices, or 1892  
automatic tabulating equipment, including direct recording 1893  
electronic voting machines, under division (B)(2) of this section. 1894

(4) The county acquired direct recording electronic voting 1895  
machines before January 1, 2000, and is not scheduled to acquire 1896  
new voting machines, marking devices, or automatic tabulating 1897  
equipment with funds made available under the Help America Vote 1898  
Act of 2002 under the process outlined in the version of the Ohio 1899  
state plan that was published in the Federal Register on March 24, 1900  
2004. 1901

(D)(1) If a county does not acquire voting machines, marking 1902  
devices, or automatic tabulating equipment under division (B)(1) 1903  
or (2) of this section or does not acquire voting machines, 1904  
marking devices, or automatic tabulating equipment through the 1905  
process described in division (C)(1) or (4) of this section, the 1906  
process for counties to acquire voting machines, marking devices, 1907  
or automatic tabulating equipment with funds made available 1908

pursuant to the Help America Vote Act of 2002 that is outlined in 1909  
the version of the Ohio state plan that was published in the 1910  
Federal Register on March 24, 2004, shall be subject to divisions 1911  
(E) and (F) of this section with respect to any direct recording 1912  
electronic voting machine a county selects for acquisition. 1913

(2) Nothing in division (E) or (F) of this section shall 1914  
affect the acquisition of voting machines, marking devices, or 1915  
automatic tabulating equipment, other than direct recording 1916  
electronic voting machines, under the process outlined in the 1917  
version of the Ohio state plan that was published in the Federal 1918  
Register on March 24, 2004. 1919

(E)(1)(a) The Secretary of State shall adopt a schedule 1920  
pursuant to which the Secretary of State shall certify for use in 1921  
this state direct recording electronic voting machines with a 1922  
voter verified paper audit trail. That schedule shall provide for 1923  
the certification, acquisition, and implementation of direct 1924  
recording electronic voting machines with a voter verified paper 1925  
audit trail not later than the first federal election that occurs 1926  
after January 1, 2006, unless required sooner by the Help America 1927  
Vote Act of 2002. 1928

(b) Before certifying any direct recording electronic voting 1929  
machines with a voter verified paper audit trail, the Secretary of 1930  
State shall establish standards for the certification of those 1931  
machines as required by division (H)(3) of section 3506.05 of the 1932  
Revised Code. In addition to the requirements of that section, the 1933  
standards for certification shall require a direct recording 1934  
electronic voting machine with a voter verified paper audit trail 1935  
to meet the requirements of the Help America Vote Act of 2002, 1936  
Chapter 3506. of the Revised Code, this act, and any other 1937  
applicable laws and standards. 1938

(c) Any vendor of a direct recording electronic voting 1939  
machine with a voter verified paper audit trail may seek 1940

certification of that machine for use in this state under the 1941  
certification standards the Secretary of State is required to 1942  
adopt under division (H)(3) of section 3506.05 of the Revised Code 1943  
and division (E)(1)(b) of this section according to the 1944  
certification schedule the Secretary of State is required to adopt 1945  
under division (E)(1)(a) of this section. 1946

(d) No vendor, type, or model of direct recording electronic 1947  
voting machine that was approved in this state according to the 1948  
process outlined in the version of the Ohio state plan that was 1949  
published in the Federal Register on March 24, 2004, shall remain 1950  
on the approved list of vendors, types, or models for acquisition 1951  
with funds made available pursuant to the Help America Vote Act of 1952  
2002 unless it is subject to the certification standards for 1953  
direct recording electronic voting machines with a voter verified 1954  
paper audit trail the Secretary of State is required to adopt 1955  
under division (H)(3) of section 3506.05 of the Revised Code and 1956  
division (E)(1)(b) of this section. 1957

(2) After the Secretary of State certifies direct recording 1958  
electronic voting machines with a voter verified paper audit trail 1959  
under division (E)(1) of this section, the Secretary of State 1960  
shall commence price negotiations with any willing vendor that 1961  
meets both of the following requirements: 1962

(a) The vendor's direct recording electronic voting machine 1963  
was approved for acquisition and use in this state under the 1964  
process outlined in the version of the Ohio state plan that was 1965  
published in the Federal Register on March 24, 2004. 1966

(b) The vendor's direct recording electronic voting machine 1967  
with a voter verified paper audit trail is certified in accordance 1968  
with division (E)(1) of this section. 1969

(3) With each willing vendor that meets the requirements of 1970  
division (E)(2) of this section, the Secretary of State shall 1971

negotiate for a final unified price. The final unified price shall  
include both of the following:

(a) The cost of upgrading, retrofitting, or otherwise  
equipping all direct recording electronic voting machines produced  
by that vendor and acquired under division (B)(1) or (2) of this  
section or through the process described in division (C)(1) or (4)  
of this section with a voter verified paper audit trail;

(b) The purchase price for that vendor for all direct  
recording electronic voting machines that were previously selected  
by a county for acquisition during the 2005 calendar year under  
the process outlined in the version of the Ohio state plan that  
was published in the Federal Register on March 24, 2004, and that  
have not already been acquired under division (B)(2) of this  
section. The purchase price under this division shall include the  
price for equipping each direct recording electronic voting  
machine with a voter verified paper audit trail.

(4) After the Secretary of State negotiates a final unified  
price with each eligible vendor under division (E)(3) of this  
section, the Secretary of State shall perform the following  
calculation with respect to each vendor:

(a) For each vendor, the final unified price shall be added  
to the total cost of all direct recording electronic voting  
machines acquired from that vendor under division (B)(1) or (2) of  
this section or through the process described in division (C)(1)  
or (4) of this section.

(b) To determine the percentage change between acquiring  
direct recording electronic voting machines under the contract  
negotiated under the process outlined in the version of the Ohio  
state plan that was published in the Federal Register on March 24,  
2004, and acquiring direct recording electronic voting machines  
with a voter verified paper audit trail, the sum under division

(E)(4)(a) of this section shall be divided by the total cost of 2003  
acquiring direct recording electronic voting machines from that 2004  
vendor if all counties that previously selected those machines 2005  
from that vendor under the process outlined in the version of the 2006  
Ohio state plan that was published in the Federal Register on 2007  
March 24, 2004, had acquired the machines under that contract. 2008

(5) If the calculation performed under division (E)(4) of 2009  
this section results in a percentage cost of one hundred twenty 2010  
per cent or less, the Secretary of State may accept this cost, 2011  
subject to Controlling Board approval. If approved by the 2012  
Controlling Board, the Secretary of State may permit both of the 2013  
following: 2014

(a) Counties that have not yet purchased direct recording 2015  
electronic voting machines with funds made available under the 2016  
Help America Vote Act of 2002 and that previously selected that 2017  
vendor's direct recording electronic voting machines to purchase 2018  
direct recording electronic voting machines with a voter verified 2019  
paper audit trail from that vendor according to the process 2020  
outlined in the version of the Ohio state plan that was published 2021  
in the Federal Register on March 24, 2004; 2022

(b) Counties that previously purchased direct recording 2023  
electronic voting machines from that vendor under division (B)(1) 2024  
or (2) of this section or through the process described in 2025  
division (C)(1) or (4) of this section to upgrade, retrofit, or 2026  
otherwise equip those direct recording electronic voting machines 2027  
with a voter verified paper audit trail from that vendor. 2028

(6) If the calculation performed under division (E)(4) of 2029  
this section results in a percentage cost of more than one hundred 2030  
twenty per cent, the Secretary of State shall not accept the cost, 2031  
and any contract negotiated with that vendor shall be deemed null 2032  
and void with respect to any direct recording electronic voting 2033  
machines not yet purchased. 2034

(F)(1) If a vendor of a direct recording electronic voting machine that was approved for acquisition and use in this state under the process outlined in the version of the Ohio state plan that was published in the Federal Register on March 24, 2004, chooses not to seek or fails to gain certification for a direct recording electronic voting machine with a voter verified paper audit trail, or if the vendor's contract is declared null and void under division (E)(6) of this section, any vendor of a direct recording electronic voting machine with a voter verified paper audit trail that is certified for use in this state may submit a bid to provide voting machines, marking devices, or automatic tabulating equipment for those counties whose original direct recording electronic voting machine selection is no longer available under this section.

(2) The Secretary of State shall develop a process by which vendors of a certified direct recording electronic voting machine with a voter verified paper audit trail may submit bids under division (F)(1) of this section, by which the Secretary of State shall approve for acquisition, and by which counties identified in division (F)(1) of this section may purchase voting machines, marking devices, or automatic tabulating equipment using funds made available pursuant to the Help America Vote Act of 2002. Any voting machines, marking devices, or automatic tabulating equipment so purchased shall meet the requirements of the Help America Vote Act of 2002, Chapter 3506. of the Revised Code, this act, and any other applicable laws and standards. Any process the Secretary of State develops under this division shall be described in the Ohio state plan. The process shall permit the Secretary of State to purchase voting machines, marking devices, or automatic tabulating equipment on behalf of a board of county commissioners with the Secretary of State acting as an agent of the board.

The process shall not authorize the Secretary of State to do

either of the following:	2067
(a) Purchase voting machines, marking devices, or automatic tabulating equipment except when acting as an agent on behalf of the board of county commissioners of a county;	2068 2069 2070
(b) Require a county board of elections to select or use any direct recording electronic voting machine except as otherwise required by federal law.	2071 2072 2073
(G) The acquisition of voting machines, marking devices, or automatic tabulating equipment under this section with funds made available pursuant to the Help America Vote Act of 2002 shall be completed before the first federal election that occurs after January 1, 2006, unless required sooner by that Act.	2074 2075 2076 2077 2078
(H) It is the intent of the General Assembly that the state of Ohio pay, with funds made available pursuant to the Help America Vote Act of 2002 or through an appropriation of state capital funds, the full cost of acquiring all voting machines, marking devices, or automatic tabulating equipment under this section.	2079 2080 2081 2082 2083 2084
<b>Section 4.</b> The Secretary of State shall amend the state plan prepared by the Secretary of State and the state plan committee pursuant to the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666, as required to conform with the provisions of this act.	2085 2086 2087 2088 2089
<b>Section 5.</b> That Section 99 of Am. Sub. H.B. 95 of the 125th General Assembly be amended to read as follows:	2090 2091
<b>Sec. 99.</b> SOS SECRETARY OF STATE	2092
General Revenue Fund	2093
GRF 050-321 Operating Expenses           \$       2,750,000   \$       2,750,000	2094

**Sub. H. B. No. 262**  
**As Reported by the Senate State and Local Government and Veterans Affairs**  
**Committee**

GRF 050-403	Election Statistics	\$	110,570	\$	110,570	2095
GRF 050-407	Pollworkers Training	\$	295,742	\$	295,742	2096
GRF 050-409	Litigation	\$	4,949	\$	4,949	2097
Expenditures						
TOTAL GRF	General Revenue Fund	\$	3,161,261	\$	3,161,261	2098
General Services Fund Group						
4S8 050-610	Board of Voting	\$	7,200	\$	7,200	2100
Machine Examiners						
412 050-609	Notary Commission	\$	178,124	\$	185,249	2101
413 050-601	Information Systems	\$	163,418	\$	169,955	2102
414 050-602	Citizen Education Fund	\$	72,800	\$	75,712	2103
TOTAL General Services	Fund Group	\$	421,542	\$	438,116	2104
Federal Special Revenue Fund Group						
<u>3AT 050-614</u>	<u>Voter/Poll Worker</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>5,000,000</u>	2106
<u>Education</u>						
<u>3AR 050-615</u>	<u>2004 HAVA Voting</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>27,250,000</u>	2107
<u>Machines</u>						
<u>3AS 050-616</u>	<u>2005 HAVA Voting</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>79,250,000</u>	2108
<u>Machines</u>						
3X4 050-612	Ohio Cntr/Law Related	\$	41,000	\$	41,000	2109
Educ Grant						
TOTAL FED	Federal Special Revenue					2110
Fund Group		\$	41,000	\$	<del>41,000</del>	2111
					<u>109,541,000</u>	
State Special Revenue Fund Group						
5N9 050-607	Technology	\$	124,582	\$	129,565	2113
Improvements						
599 050-603	Business Services	\$	13,889,462	\$	14,241,966	2114
Operating Expenses						
TOTAL SSR	State Special Revenue					2115
Fund Group		\$	14,014,044	\$	14,371,531	2116
Holding Account Redistribution Fund Group						
						2117

R01 050-605 Uniform Commercial	\$	65,000	\$	65,000	2118
Code Refunds					
R02 050-606 Corporate/Business	\$	100,000	\$	100,000	2119
Filing Refunds					
TOTAL 090 Holding Account					2120
Redistribution Fund Group	\$	165,000	\$	165,000	2121
TOTAL ALL BUDGET FUND GROUPS	\$	17,802,847	\$	<del>18,176,908</del>	2122
				<u>127,676,908</u>	

BOARD OF VOTING MACHINE EXAMINERS 2123

The foregoing appropriation item 050-610, Board of Voting 2124  
Machine Examiners, shall be used to pay for the services and 2125  
expenses of the members of the Board of Voting Machine Examiners, 2126  
and for other expenses that are authorized to be paid from the 2127  
Board of Voting Machine Examiners Fund, which is created in 2128  
section 3506.05 of the Revised Code. Moneys not used shall be 2129  
returned to the person or entity submitting the equipment for 2130  
examination. If it is determined that additional appropriations 2131  
are necessary, such amounts are appropriated. 2132

HOLDING ACCOUNT REDISTRIBUTION GROUP 2133

The foregoing appropriation items 050-605 and 050-606, 2134  
Holding Account Redistribution Fund Group, shall be used to hold 2135  
revenues until they are directed to the appropriate accounts or 2136  
until they are refunded. If it is determined that additional 2137  
appropriations are necessary, such amounts are appropriated. 2138

VOTER/POLL WORKER EDUCATION FUND 2139

If, as of the effective date of this amendment, the 2140  
Controlling Board has not taken action to allow for a statewide 2141  
voter education and poll worker training program in the state, the 2142  
Director of Budget and Management shall transfer \$5,000,000 from 2143  
the Election Reform Fund (Fund 3AA) to the Voter Education/Poll 2144  
Worker Education Fund (Fund 3AT). Of the foregoing appropriation 2145

item 050-614, Voter/Poll Worker Education, \$2,500,000 shall be 2146  
allocated to the counties, subject to Controlling Board approval. 2147  
Of this amount, the Secretary of State shall distribute \$440,000 2148  
to the counties such that each county shall receive \$5,000. The 2149  
remaining \$2,060,000 allocated shall be distributed to the 2150  
counties based upon per capita population as determined by the 2151  
most recent federal decennial census data. \$2,500,000 shall be 2152  
used to conduct a statewide voter education and poll 2153  
worker-training program, subject to Controlling Board approval. 2154

Of the \$2,500,000 appropriated to counties, no county shall 2155  
receive its allotted funding until it has submitted a voter 2156  
education plan to, and had that plan approved by, the Secretary of 2157  
State. Of the \$2,500,000 appropriated to the Secretary of State 2158  
for the purpose of conducting a voter education and poll worker 2159  
training program, the Secretary of State may use up to \$1,000,000 2160  
for the development, implementation, and certification for 2161  
standards of Voter Verified Paper Audit Trail (VVPAT) systems. 2162

After January 1, 2005, the Secretary of State may seek 2163  
approval from the Controlling Board for the release of an 2164  
additional \$2,500,000 from the Election Reform Fund (Fund 3AA), if 2165  
the Secretary of State can demonstrate it is necessary for the 2166  
implementation of additional voter education and poll worker 2167  
training. Of this \$2,500,000, the Secretary of State must 2168  
distribute \$1,250,000 to the counties on a per capita basis based 2169  
upon population as determined by the most recent federal decennial 2170  
census data. However, the \$1,250,000 shall not be released to the 2171  
individual counties until those counties have submitted a voter 2172  
education plan to, and had that plan approved by, the Secretary of 2173  
State. 2174

Upon the effective date of this amendment, the Secretary of 2175  
State may request that the Director of Budget and Management 2176  
transfer an amount from the Election Reform Fund (Fund 3AA) to a 2177

GRF appropriation item within the Secretary of State's Budget for 2178  
the compensation of the ADA coordinator under section 3501.05 of 2179  
the Revised Code. 2180

2004 HAVA VOTING MACHINES FUND 2181

If, as of the effective date of this amendment, the 2182  
Controlling Board has not taken action to approve the funds for 2183  
deployment of HAVA certified voting systems in 2004, the Director 2184  
of Budget and Management shall transfer an amount not to exceed 2185  
\$27,250,000 from the Election Reform Fund (Fund 3AA) to the 2004 2186  
HAVA Voting Machines Fund (Fund 3AR). 2187

2005 HAVA VOTING MACHINES FUND 2188

As of the effective date of this amendment, the Director of 2189  
Budget and Management shall transfer an amount not to exceed 2190  
\$79,250,000 from the Election Reform Fund (Fund 3AA) to the 2005 2191  
HAVA Voting Machines Fund (Fund 3AS). The amount is hereby 2192  
appropriated. The Secretary of State shall certify to the Director 2193  
of Budget and Management any amount from the 2004 Voting Machines 2194  
Fund (Fund 3AR) that was not required for voting machine 2195  
replacement or upgrades. The Director of Budget and Management 2196  
shall transfer this amount to the 2005 HAVA Voting Machines Fund 2197  
(Fund 3AS) and abolish the 2004 HAVA Voting Machines Fund (Fund 2198  
3AR). 2199

**Section 6.** That existing Section 99 of Am. Sub. H.B. 95 of 2200  
the 125th General Assembly is hereby repealed. 2201

**Section 7.** The Director of the Legislative Service Commission 2202  
may use up to \$350,000 from the Election Reform Fund (Fund 3AA), 2203  
created by the Controlling Board in 2003, to conduct a security 2204  
review study of electronic voting machines. The amount is hereby 2205  
appropriated. 2206

**Section 8.** The codified and uncodified sections of law 2207  
amended or enacted by this act, and the items of law of which the 2208  
sections as amended or enacted by this act are composed, are not 2209  
subject to the referendum. Therefore, under Ohio Constitution, 2210  
Article II, Section 1d and section 1.471 of the Revised Code, the 2211  
sections of law amended or enacted by this act, and the items of 2212  
law of which the sections as amended or enacted by this act are 2213  
composed, go into immediate effect when this act becomes law. 2214