

As Reported by the Committee of Conference, Part II

Part II of this act continues Part I

Sec. 5121.04. (A) ~~The department of mental health and the~~ 64919
department of mental retardation and developmental disabilities 64920
shall investigate the financial condition of the ~~patients in~~ 64921
~~hospitals and~~ residents in institutions, residents whose care or 64922
treatment is being paid for in a private facility or home under 64923
the control of the department ~~of mental retardation and~~ 64924
~~developmental disabilities~~, and of the relatives named in section 64925
5121.06 of the Revised Code as liable for the support of such 64926
~~patients or~~ residents, in order to determine the ability of any 64927
~~patient, resident, or such~~ liable relatives to pay for the support 64928
of the ~~patient or~~ resident and to provide suitable clothing as 64929
required by the superintendent of the institution. 64930

~~The department of mental health shall investigate the~~ 64931
~~financial condition of patients receiving state operated community~~ 64932
~~mental health services and of the liable relatives to determine~~ 64933
~~the patient's or relative's ability to pay for the patient's~~ 64934
~~support. In all cases, in determining ability to pay and the~~ 64935
~~amount to be charged, due regard shall be had for others who may~~ 64936
~~be dependent for support upon such relatives or the estate of the~~ 64937
~~patient.~~ 64938

(B) The department shall follow the provisions of this 64939
division in determining the ability to pay of a ~~patient or~~ 64940
resident or the ~~patient's or~~ resident's liable relatives and the 64941
amount to be charged such ~~patient or~~ resident or liable relatives. 64942

(1) Subject to divisions (B)(10) and (11) of this section, a 64943
~~patient or~~ resident without dependents shall be liable for the 64944
full applicable cost. A ~~patient or~~ resident without dependents who 64945
has a gross annual income equal to or exceeding the sum of the 64946

full applicable cost, plus fifty dollars per month, regardless of 64947
the source of such income, shall pay currently the full amount of 64948
the applicable cost; if the ~~patient's or~~ resident's gross annual 64949
income is less than such sum, not more than fifty dollars per 64950
month shall be kept for personal use by or on behalf of the 64951
~~patient or~~ resident, except as permitted in the state plan for 64952
providing medical assistance under Title XIX of the "Social 64953
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and 64954
the balance shall be paid currently on the ~~patient's or~~ resident's 64955
support. Subject to divisions (B)(10) and (11) of this section, 64956
the estate of a ~~patient or~~ resident without dependents shall pay 64957
currently any remaining difference between the applicable cost and 64958
the amounts prescribed in this section, or shall execute an 64959
agreement with the department for payment to be made at some 64960
future date under terms suitable to the department. However, no 64961
security interest, mortgage, or lien shall be taken, granted, or 64962
charged against any principal residence of a ~~patient or~~ resident 64963
without dependents under an agreement or otherwise to secure 64964
support payments, and no foreclosure actions shall be taken on 64965
security interests, mortgages, or liens taken, granted, or charged 64966
against principal residences of ~~patients or~~ residents prior to 64967
October 7, 1977. 64968

(2) The ability to pay of a ~~patient or~~ resident with 64969
dependents, or of a liable relative of a ~~patient or~~ resident 64970
either with or without dependents, shall be determined in 64971
accordance with the ~~patient's, resident's, or liable relative's~~ 64972
income or other assets, the needs of others who are dependent on 64973
such income and other assets for support, and, if applicable, 64974
divisions (B)(10) and (11) of this section. 64975

For the first thirty days of care and treatment of each 64976
admission ~~and for the first thirty days of care and treatment from~~ 64977
~~state-operated community mental health services,~~ but in no event 64978

for more than thirty days in any calendar year, the mentally ill	64979
patient or mentally retarded resident with dependents or the	64980
liable relative of a mentally ill patient or a mentally retarded	64981
resident either with or without dependents shall be charged an	64982
amount equal to the percentage of the average applicable cost	64983
determined in accordance with the schedule of adjusted gross	64984
annual income contained after this paragraph. After such first	64985
thirty days of care and treatment, such mentally ill patient or	64986
mentally retarded resident or such liable relative shall be	64987
charged an amount equal to the percentage of a base support rate	64988
of four dollars per day for mentally ill patients and mentally	64989
retarded residents, as determined in accordance with the schedule	64990
of gross annual income contained after this paragraph, or in	64991
accordance with division (B)(5) of this section. Beginning January	64992
1, 1978, the department shall increase the base rate when the	64993
consumer price index average is more than 4.0 for the preceding	64994
calendar year by not more than the average for such calendar year.	64995
Adjusted Gross Annual	64996
Income of Patient or Resident	64997
or Liable Relative (FN a)	64998
Number of Dependents (FN b)	64999
	8 or
	more
	65000
Rate of Support (In Percentages)	65001
\$15,000 or less	65002
15,001 to 17,500	65003
17,501 to 20,000	65004
20,001 to 21,000	65005
21,001 to 22,000	65006
22,001 to 23,000	65007
23,001 to 24,000	65008
24,001 to 25,000	65009
25,001 to 26,000	65010

26,001 to 27,000	60	55	50	45	40	35	30	25	65011
27,001 to 28,000	70	60	55	50	45	40	35	30	65012
28,001 to 30,000	80	70	60	55	50	45	40	35	65013
30,001 to 40,000	90	80	70	60	55	50	45	40	65014
40,001 and over	100	90	80	70	60	55	50	45	65015

Footnote a. The ~~patient or~~ resident or relative shall furnish 65016
a copy of the ~~patient's,~~ resident's, or relative's federal income 65017
tax return as evidence of gross annual income. 65018

Footnote b. The number of dependents includes the liable 65019
relative but excludes ~~the patient or a~~ resident in ~~the hospital or~~
an institution. "Dependent" includes any person who receives more 65020
than half the person's support from the ~~patient~~ resident or the 65021
~~patient's~~ resident's liable relative. 65022
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(3) A ~~patient or~~ resident or liable relative having medical, 65024
funeral, or related expenses in excess of four per cent of the 65025
adjusted gross annual income, which expenses were not covered by 65026
insurance, may adjust such gross annual income by reducing the 65027
adjusted gross annual income by the full amount of such expenses. 65028
Proof of such expenses satisfactory to the department must be 65029
furnished. 65030

(4) Additional dependencies may be claimed if: 65031

(a) The liable relative is blind; 65032

(b) The liable relative is over sixty-five; 65033

(c) A child is a college student with expenses in excess of 65034
fifty dollars per month; 65035

(d) The services of a housekeeper, costing in excess of fifty 65036
dollars per month, are required if the person who normally keeps 65037
house for minor children is the ~~patient or~~ resident. 65038

(5) If with respect to any ~~patient or~~ resident with 65039
dependents there is chargeable under division (B)(2) of this 65040

section less than fifty per cent of the applicable cost or, if the 65041
base support rate was used, less than fifty per cent of the amount 65042
determined by use of the base support rate, and if with respect to 65043
such ~~patient~~ or resident there is a liable relative who has an 65044
estate having a value in excess of fifteen thousand dollars or if 65045
such ~~patient~~ or resident has a dependent and an estate having a 65046
value in excess of fifteen thousand dollars, there shall be paid 65047
with respect to such ~~patient~~ or resident a total of fifty per cent 65048
of the applicable cost or the base support rate amount, as the 65049
case may be, on a current basis or there shall be executed with 65050
respect to such ~~patient~~ or resident an agreement with the 65051
department for payment to be made at some future date under terms 65052
suitable to the department. 65053

(6) When a person has been a ~~patient~~ or resident for fifteen 65054
years and the support charges for which a relative is liable have 65055
been paid for the fifteen-year period, the liable relative shall 65056
be relieved of any further support charges. 65057

(7) The department shall accept voluntary payments from 65058
~~patients~~ or residents or liable relatives whose incomes are below 65059
the minimum shown in the schedule set forth in this division. The 65060
department also shall accept voluntary payments in excess of 65061
required amounts from both liable and nonliable relatives. 65062

(8) If a ~~patient~~ or resident is covered by an insurance 65063
policy, or other contract that provides for payment of expenses 65064
for care and treatment for ~~mental illness~~ or mental retardation or 65065
other developmental disability at or from an institution, or 65066
facility (including a ~~hospital~~ or community service unit under the 65067
jurisdiction of the department), ~~or state-operated community~~ 65068
~~mental health service~~, the other provisions of this section, 65069
except divisions (B)(8), (10), and (11) of this section, and of 65070
section ~~5121.03~~ 5121.01 of the Revised Code shall be suspended to 65071

the extent that such insurance policy or other contract is in 65072
force, and such ~~patient~~ or resident shall be charged the full 65073
amount of the applicable cost. Any insurance carrier or other 65074
third party payor providing coverage for such care and treatment 65075
shall pay for this support obligation in an amount equal to the 65076
lesser of either the applicable cost or the benefits provided 65077
under the policy or other contract. Whether or not an insured, 65078
owner of, or other person having an interest in such policy or 65079
other contract is liable for support payments under other 65080
provisions of this chapter, the insured, policy owner, or other 65081
person shall assign payment directly to the department of all 65082
assignable benefits under the policy or other contract and shall 65083
pay over to the department, within ten days of receipt, all 65084
insurance or other benefits received as reimbursement or payment 65085
for expenses incurred by the ~~patient~~ or resident or for any other 65086
reason. If the insured, policy owner, or other person refuses to 65087
assign such payment to the department or refuses to pay such 65088
received reimbursements or payments over to the department within 65089
ten days of receipt, the insured's, policy owners', or other 65090
person's total liability for the services equals the applicable 65091
statutory liability for payment for the services as determined 65092
under other provisions of this chapter, plus the amounts payable 65093
under the terms of the policy or other contract. In no event shall 65094
this total liability exceed the full amount of the applicable 65095
cost. Upon its request, the department is entitled to a court 65096
order that compels the insured, owner of, or other person having 65097
an interest in the policy or other contract to comply with the 65098
assignment requirements of this division or that itself serves as 65099
a legally sufficient assignment in compliance with such 65100
requirements. Notwithstanding section ~~5122.31~~ 5123.89 of the 65101
Revised Code and any other law relating to confidentiality of 65102
records, the managing officer of the institution or facility where 65103

a person is or has been a ~~patient or~~ resident, ~~or the managing~~ 65104
~~officer of the state operated community mental health services~~ 65105
~~from which the patient receives services,~~ shall disclose pertinent 65106
medical information concerning the ~~patient or~~ resident to the 65107
insurance carrier or other third party payor in question, in order 65108
to effect collection from the carrier or payor of the state's 65109
claim for care and treatment under this division. For such 65110
disclosure, the managing officer is not subject to any civil or 65111
criminal liability. 65112

(9) The rate to be charged for pre-admission care, 65113
after-care, day-care, or routine consultation and treatment 65114
services shall be based upon the ability of the ~~patient or~~ 65115
resident or the ~~patient's or~~ resident's liable relatives to pay. 65116
When it is determined by the department that a charge shall be 65117
made, such charge shall be computed as provided in divisions 65118
(B)(1) and (2) of this section. 65119

(10) If a ~~patient or~~ resident with or without dependents is 65120
the beneficiary of a trust created pursuant to section 1339.51 of 65121
the Revised Code, then, notwithstanding any contrary provision of 65122
this chapter or of a rule adopted pursuant to this chapter, 65123
divisions (C) and (D) of that section shall apply in determining 65124
the assets or resources of the ~~patient or~~ resident, the ~~patient's~~ 65125
~~or~~ resident's estate, the settlor, or the settlor's estate and to 65126
claims arising under this chapter against the ~~patient or~~ resident, 65127
the ~~patient's or~~ resident's estate, the settlor, or the settlor's 65128
estate. 65129

(11) If the department ~~of mental retardation and~~ 65130
~~developmental disabilities~~ waives the liability of an individual 65131
and the individual's liable relatives pursuant to section 5123.194 65132
of the Revised Code, the liability of the individual and relative 65133
ceases in accordance with the waiver's terms. 65134

(C) The department may enter into agreements with a ~~patient~~ 65135
~~or~~ resident or a liable relative for support payments to be made 65136
in the future. However, no security interest, mortgage, or lien 65137
shall be taken, granted, or charged against any principal family 65138
residence of a ~~patient or~~ resident with dependents or a liable 65139
relative under an agreement or otherwise to secure support 65140
payments, and no foreclosure actions shall be taken on security 65141
interests, mortgages or liens taken, granted, or charged against 65142
principal residences of ~~patients or~~ residents or liable relatives 65143
prior to October 7, 1977. 65144

(D) The department shall make all investigations and 65145
determinations required by this section within ninety days after a 65146
~~patient or~~ resident is admitted to an institution under the 65147
department's control ~~or a patient begins to receive state operated~~ 65148
~~community mental health services,~~ and immediately shall notify by 65149
mail the persons liable of the amount to be charged. 65150

(E) All actions to enforce the collection of payments agreed 65151
upon or charged by the department shall be commenced within six 65152
years after the date of default of an agreement to pay support 65153
charges or the date such payment becomes delinquent. If a payment 65154
is made pursuant to an agreement which is in default, a new 65155
six-year period for actions to enforce the collection of payments 65156
under such agreement shall be computed from the date of such 65157
payment. For purposes of this division an agreement is in default 65158
or a payment is delinquent if a payment is not made within thirty 65159
days after it is incurred or a payment, pursuant to an agreement, 65160
is not made within thirty days after the date specified for such 65161
payment. In all actions to enforce the collection of payment for 65162
the liability for support, every court of record shall receive 65163
into evidence the proof of claim made by the state together with 65164
all debts and credits, and it shall be prima-facie evidence of the 65165

facts contained in it.

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Sec. 5121.05. ~~The department of mental health and the~~
department of mental retardation and developmental disabilities
may subpoena witnesses, take testimony under oath, and examine any
public records relating to the income and other assets of a
~~patient or resident or of a relative liable for such patient's or~~
~~resident's support~~ relative. All information, conclusions, and
recommendations shall be submitted to the department by the
investigating agent of the department. The department shall
determine the amount of support to be paid, by whom, and whether
clothing shall be furnished by the relatives or guardian.

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Sec. 5121.06. (A) The following persons other than the
~~patient or resident or the patient's or resident's estate~~ are
liable relatives and all the following persons are jointly and
severally liable for the support of a ~~patient or resident~~ in a
~~hospital or an~~ institution under the control of ~~the department of~~
~~mental health or~~ the department of mental retardation and
developmental disabilities ~~or for the support of a patient~~
~~receiving state operated community mental health services:~~

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(1) The ~~patient or resident or the patient's or resident's~~
estate;

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(2) The ~~patient's or resident's~~ spouse;

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(3) The father or mother, or both, of a minor ~~patient or~~
resident under the age of eighteen years.

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(B) The department shall determine, pursuant to section
5121.04 of the Revised Code, the amount to be charged each ~~such~~
resident and liable ~~person~~ relative in the order named in this
section, but shall not collect from any person more than one
hundred per cent of the applicable cost.

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(C) An action to collect delinquent payments or to enforce 65195
agreements in default may be brought against any or all persons 65196
named in this section. To the extent parents of adult ~~patients or~~ 65197
residents, pursuant to the language of this section previously in 65198
force, incurred charges for the support of such ~~patients or~~ 65199
residents between the eighteenth birthday of such ~~patient or~~ 65200
resident and July 1, 1975, their liability for such period may be 65201
cancelled, compromised, or settled as provided in section 5121.07 65202
of the Revised Code. 65203

(D) Irrespective of the number of ~~patients or~~ residents whose 65204
care might be chargeable against a liable relative, no individual 65205
liable relative nor ~~any~~ group of liable relatives who are members 65206
of the same family unit shall be charged with the support of more 65207
than one ~~patient or~~ resident during the same period of time, and 65208
different periods of time for which such liable relative has paid 65209
the charges for such different ~~patients' or~~ residents' care and 65210
support shall be added together for the purpose of completing the 65211
maximum fifteen-year period of liability of such liable relative 65212
under division (B)(6) of section 5121.04 of the Revised Code. 65213

Sec. 5121.061. The authority of ~~the department of mental~~ 65214
~~health or~~ the department of mental retardation and developmental 65215
disabilities to modify support charges pursuant to section 5121.04 65216
of the Revised Code shall not be exercised until the ~~patient or~~ 65217
resident or liable relative has petitioned the department for 65218
modification as provided in section 5121.07 of the Revised Code 65219
and has offered to the department satisfactory proof of ~~his~~ the 65220
resident's or liable relative's earnings and assets. The 65221
department may modify the charges if its investigation warrants 65222
such modification. 65223

Sec. 5121.07. Any person who has been charged with the 65224

payment of the support of a ~~patient or resident of any benevolent~~ 65225
~~institution;~~ or for pre-admission care, after-care, day-care, or 65226
routine consultation and treatment services in a community service 65227
unit under the control of ~~the department of mental health or the~~ 65228
department of mental retardation and developmental disabilities; 65229
~~or for the cost of state-operated community mental health services~~ 65230
may petition the department for a release from, or modification 65231
of, such charge, and the department, after an investigation, may 65232
cancel or modify such former charge, or may cancel, compromise, or 65233
settle any accrued liability in an amount not exceeding five 65234
thousand dollars. Amounts in excess thereof may be canceled, 65235
compromised, or settled as provided in section 131.02 of the 65236
Revised Code. The department may for due cause increase the amount 65237
previously ordered paid. 65238

Sec. 5121.08. The managing officers of the ~~benevolent~~ 65239
institutions under the control of ~~the department of mental health~~ 65240
~~and~~ the department of mental retardation and developmental 65241
disabilities, ~~the managing officers of state-operated community~~ 65242
~~mental health services,~~ and the committing court, if requested, 65243
shall submit to the department such information as they may obtain 65244
concerning the financial condition of any ~~patient or~~ resident or 65245
of relatives liable for the ~~patient's or~~ resident's support. 65246

Sec. 5121.09. In case the estate of any ~~patient or~~ resident 65247
in a ~~benevolent~~ an institution under the jurisdiction of ~~the~~ 65248
~~department of mental health or~~ the department of mental 65249
retardation and developmental disabilities ~~or receiving~~ 65250
~~state-operated community mental health services~~ is sufficient for 65251
the ~~patient's or~~ resident's support, without hardship to any 65252
others who may be dependent thereon, and no guardian has been 65253
appointed for such estate, the agent of the department shall 65254
petition the probate court of the proper county to appoint a 65255

guardian. 65256

Sec. 5121.10. Upon the death of a ~~person who is a patient or~~ 65257
~~resident,~~ or ~~has been a patient or~~ former resident, of any 65258
~~benevolent~~ institution under the jurisdiction of ~~the department of~~ 65259
~~mental health or~~ the department of mental retardation and 65260
~~developmental disabilities or state-operated community mental~~ 65261
~~health services,~~ or upon the death of a person responsible under 65262
section 5121.06 of the Revised Code for the support of a ~~patient~~ 65263
~~or~~ resident, the department may waive the presentation of any 65264
claim for support against the estate of such decedent, when in its 65265
judgment an otherwise dependent person will be directly benefited 65266
by the estate. Claims against an estate for support of a ~~patient~~ 65267
~~or~~ resident are subject to section 1339.51 and Chapter 2117. of 65268
the Revised Code, and shall be treated, and may be barred, the 65269
same as the claims of other creditors of the estate, pursuant to 65270
that section or chapter. 65271

The department may accept from a guardian or trustee of a 65272
~~patient or~~ resident a contract agreeing to pay to the state from 65273
the property of the guardian's or trustee's ward before or at the 65274
death of the ward a fixed annual amount for the support of the 65275
ward while the ward is a ~~patient or~~ resident, with interest at 65276
four per cent per annum. A copy of the contract shall be filed in 65277
the probate court of the proper county and duly entered as a part 65278
of the records concerning the ward. 65279

Sec. 5121.11. The state shall bear the expense of the burial 65280
or cremation of an indigent ~~patient or~~ resident who dies in a 65281
state ~~hospital for the mentally ill, or~~ institution ~~for the~~ 65282
~~mentally retarded,~~ operated by the department of mental 65283
retardation and developmental disabilities under section 5123.03 65284
of the Revised Code or in a state correctional institution, if the 65285
body is not claimed for interment or cremation at the expense of 65286

friends or relatives, or is not delivered for anatomical purposes 65287
or for the study of embalming in accordance with section 1713.34 65288
of the Revised Code. The managing officer of the institution shall 65289
provide at the grave of the person or, if the person's cremated 65290
remains are buried, at the grave of the person's cremated remains, 65291
a metal, stone, or concrete marker on which shall be inscribed the 65292
name and age of the person and the date of death. 65293

Sec. 5121.12. The support and maintenance of ~~patients~~ 65294
~~confined in state hospitals for the mentally ill or of residents~~ 65295
~~confined in state institutions for the mentally retarded~~ operated 65296
by the department of mental retardation and developmental 65297
disabilities under section 5123.03 of the Revised Code, including 65298
those transferred to them from state correctional institutions, 65299
and also including persons under indictment or conviction for 65300
crime, shall be collected and paid in accordance with ~~this chapter~~ 65301
sections 5121.01 to 5121.21 of the Revised Code. 65302

Sec. 5121.21. ~~(A)~~ If payment of any amount due the state 65303
under the provisions of Chapter 5121. of the Revised Code is made 65304
on account of a ~~patient or~~ resident by any liable relative, as 65305
defined in division (A) of section 5121.06 of the Revised Code, 65306
such relative may recover the following amounts from the following 65307
persons; provided, that in no event may such relative recover in 65308
total more than such relative has paid the state, and provided, 65309
that in no event is the person from whom recovery is sought 65310
obliged to pay at a rate of support higher than such person would 65311
have paid had the state proceeded directly against such person: 65312

~~(1)~~(A) Any liable person may recover from the ~~patient or~~ 65313
resident, ~~his~~ the resident's guardian, or from the executor or 65314
administrator of the ~~patient's or~~ resident's estate, the full 65315
amount of payment made by such liable relative. 65316

~~(2)~~(B) Any liable relative may recover from the ~~patient's or~~ 65317
resident's ~~husband or wife,~~ spouse the full amount of payment made 65318
by such liable relative. 65319

~~(3)~~(C) A minor ~~patient's or~~ resident's mother may recover 65320
from such minor ~~patient's or~~ resident's father ~~the full~~ one-half 65321
of the amount of payment made by such mother. 65322

~~(4)~~(D) Any liable relative, other than the ~~patient's or~~ 65323
resident's spouse and other than a minor ~~patient's or~~ resident's 65324
parent, may recover from such ~~of a patient's or~~ resident's adult 65325
sons and daughters as are liable under division (A)(4) of section 65326
5121.06 of the Revised Code, the full amount of payment made by 65327
such liable relative; provided, that there may be recovered from 65328
each such son or daughter only such proportion of the total 65329
payment as the figure one bears to the total number of such adult 65330
sons and daughters. 65331

~~(5)~~(E) An adult ~~patient's or~~ resident's mother may recover 65332
from an adult ~~patient's or~~ resident's father ~~the full~~ one-half of 65333
the amount of payment made by such mother. 65334

Sec. 5121.30. As used in sections 5121.30 to 5121.56 of the 65335
Revised Code: 65336

(A) "Community mental health services client" or "client" 65337
means a person receiving state-operated community mental health 65338
services. 65339

(B) "Countable assets" means all of the following: 65340

(1) Cash; 65341

(2) Bank deposits; 65342

(3) Securities; 65343

(4) Individual retirement accounts; 65344

(5) Qualified employer plans, including 401(k) and Keogh 65345

<u>plans;</u>	65346
<u>(6) Annuities;</u>	65347
<u>(7) Funds in a trust created under section 1339.51 of the Revised Code;</u>	65348
<u>(8) Investment property and income;</u>	65349
<u>(9) The cash surrender values of life insurance policies;</u>	65350
<u>(10) Assets acquired by gift, bequest, devise, or inheritance;</u>	65351
<u>(11) Any other asset determined by the department of mental health to be equivalent to the assets enumerated in this division.</u>	65352
<u>(C) "Federal poverty level" or "FPL" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.</u>	65353
<u>(D) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.</u>	65354
<u>(E) "Hospital" means an institution, hospital, or other place established, controlled, or supervised by the department of mental health under Chapter 5119. of the Revised Code.</u>	65355
<u>(F) "Liable relative" means all of the following:</u>	65356
<u>(1) A patient's spouse;</u>	65357
<u>(2) A patient's mother or father, or both, if the patient is</u>	65358

under eighteen years of age; 65375

(3) A patient's guardian. 65376

(G) "Patient" means a person admitted to a hospital for 65377
inpatient care or treatment, including a person transferred to a 65378
hospital from a state correctional institution or a person under 65379
indictment or conviction who has been transferred to a hospital. 65380

Sec. 5121.31. All patients shall be maintained at the expense 65381
of the state. The traveling and incidental expenses in conveying 65382
them to a hospital shall be paid by the county of commitment. On 65383
admission, patients shall be neatly and comfortably clothed. 65384
Thereafter, the expense of necessary clothing shall be borne by 65385
the responsible relatives or guardian if they are financially 65386
able. If not furnished, the state shall bear the expense. Any 65387
required traveling expense after admission to the hospital shall 65388
be borne by the state if the responsible relatives or guardian is 65389
unable to do so. 65390

Sec. 5121.32. On an annual basis, the department of mental 65391
health shall determine both of the following using generally 65392
accepted governmental accounting principles: 65393

(A) The applicable per diem charge for each hospital operated 65394
by the department; 65395

(B) The ancillary per diem rate for each hospital operated by 65396
the department. 65397

In determining a hospital's applicable per diem charge and 65398
ancillary per diem rate, the department shall consider the average 65399
actual per diem cost of maintaining and treating a patient at the 65400
hospital or, at the department's discretion, the average actual 65401
per diem cost of maintaining and treating a patient in a unit of 65402
the hospital. 65403

Sec. 5121.33. Except as provided in sections 5121.35, 5121.43, 5121.46, 5121.47, 5121.49, and 5121.52 of the Revised Code, the department of mental health shall, for each billing cycle, charge a patient, patient's estate, or liable relative an amount equal to the sum of the following:

(A) The applicable per diem charge multiplied by the number of days the patient was admitted to the hospital;

(B) An amount that was previously billed but not paid.

Sec. 5121.34. (A) A patient, patient's estate, and patient's liable relatives shall be jointly and severally liable for amounts charged by the department of mental health in accordance with section 5121.33 or 5121.35 of the Revised Code. In no case shall any of the foregoing persons be liable for more than one hundred per cent of the full sum charged under section 5121.33 of the Revised Code.

(B) Collections of support payments shall be made by the department and, subject to meeting prior requirements for payment and crediting of such collections and other available receipts, in accordance with the bond proceedings applicable to obligations issued pursuant to section 154.20 of the Revised Code. The collections and other available receipts designated by the director of mental health for deposit in the special accounts, together with insurance contract payments provided for in section 5121.43 of the Revised Code, shall be remitted to the treasurer of state for deposit in the state treasury to the credit of the mental health operating fund, which is hereby created, to be used for the general purposes of the department. The department shall make refunds of overpayment of support charges from the mental health operating fund.

Sec. 5121.35. The department of mental health shall charge a patient, patient's estate, or liable relative an amount discounted from the amount the department charges under section 5121.33 of the Revised Code if the department determines through the application process described in section 5121.36 of the Revised Code or through the financial assessment process described in section 5121.37 of the Revised Code that the patient, estate, or relative is eligible for a discount.

Sec. 5121.36. (A) A patient, patient's estate, or liable relative may apply for a discount by completing an application form prescribed by the director of mental health. The department of mental health may require a patient, estate, or relative to furnish any of the following with an application form:

(1) A copy of the patient's, estate's, or liable relative's federal income tax return for the year preceding the date of application or, if that is not yet available, the preceding year;

(2) A copy of the patient's, estate's, or liable relative's employee tax withholding return (form W-2) for the year preceding the date of application;

(3) Any other relevant documents prescribed by the director of mental health.

(B) To be considered, an application must be submitted to the department not later than ninety days after the date the patient is admitted to a hospital.

(C) From the information provided by a patient, estate, or relative, the department shall determine whether the department will charge the person a discounted amount in accordance with sections 5121.40 and 5121.41 of the Revised Code. In making this determination, the department shall consider whether the patient is covered by an insurance policy or other contract that provides

for payment of expenses and treatment for mental illness. If the 65463
department determines that the patient has coverage, the 65464
department shall require payment in accordance with section 65465
5121.43 of the Revised Code. 65466

(D) The department shall notify the patient, executor or 65467
administrator of the patient's estate, or liable relative who 65468
submitted the application form in writing regarding whether that 65469
person will be charged a discounted amount and the per diem rate 65470
to be charged. 65471

(E) In accordance with section 5121.42 of the Revised Code, 65472
the department may, at any time, modify an amount charged or 65473
change the per diem rate to be charged if the department learns of 65474
countable assets or income that was not previously disclosed or 65475
was acquired after the application form was submitted. Within a 65476
reasonable time, the department shall notify in writing any person 65477
affected by a modification or change. 65478

Sec. 5121.37. After a patient's admittance to a hospital, the 65479
department of mental health shall conduct a financial assessment 65480
to determine whether the patient, patient's estate, or liable 65481
relative will be charged an amount discounted from the amount the 65482
department charges under section 5121.33 of the Revised Code. The 65483
department shall make the determination in accordance with 65484
sections 5121.40 and 5121.41 of the Revised Code. 65485

If a discounted rate is to be charged, the department shall 65486
notify the person whose financial condition was assessed. The 65487
notice shall specify the per diem rate to be charged. 65488

In accordance with section 5121.42 of the Revised Code, the 65489
department may, at any time, modify an amount charged or change 65490
the per diem rate to be charged if the department learns of 65491
countable assets or income that was not previously disclosed or 65492

was acquired after the assessment was conducted. Within a 65493
reasonable time, the department shall notify in writing any person 65494
affected by a modification or change. 65495

Sec. 5121.38. The department of mental health may subpoena 65496
witnesses, take testimony under oath, and examine any public 65497
records relating to the income and other assets of a patient or of 65498
a relative liable for such patient's support. All information, 65499
conclusions, and recommendations shall be submitted to the 65500
department by the investigating agent of the department. 65501

Sec. 5121.40. (A) A patient, patient's estate, or liable 65502
relative may be eligible to be charged an amount discounted from 65503
the amount the department of mental health charges under section 65504
5121.33 of the Revised Code if the patient, estate, or relative 65505
has countable assets with a total value that is not greater than 65506
an amount equal to fifty per cent of the difference between the 65507
following: 65508

(1) The gross annual income that corresponds with a family 65509
size of two persons at one hundred per cent of the federal poverty 65510
level for the state; 65511

(2) The gross annual income that corresponds with a family 65512
size of one person at one hundred per cent of the federal poverty 65513
level for the state. For purposes of determining family size, the 65514
patient is one dependent. One additional dependent shall be 65515
included for each of the following circumstances and persons: 65516

(a) The patient or liable relative is legally blind or deaf. 65517

(b) The patient or liable relative is of sixty-five years of 65518
age or older. 65519

(c) Each child under eighteen years of age for which the 65520
patient or liable relative has legal custody; 65521

(d) The patient's or liable relative's spouse. 65522

(B) A patient, estate, or relative may, not later than ninety 65523
days after the patient's admission to a hospital, surrender the 65524
value of countable assets sufficient to reduce countable assets to 65525
not more than the limit described in division (A) of this section. 65526

Sec. 5121.41. (A) If the assets of a patient, patient's 65527
estate, or liable relative do not exceed the countable asset limit 65528
in section 5121.40 of the Revised Code and the annual income of 65529
the patient, estate, or relative does not exceed four hundred per 65530
cent of the federal poverty level, the patient, estate, or 65531
relative shall be charged an amount discounted from the amount the 65532
department charges under section 5121.33 of the Revised Code for 65533
the first thirty days the patient is admitted as an inpatient in a 65534
hospital and for which the patient is liable for the cost of care. 65535
The amount of the discount shall be computed according to the 65536
following schedule: 65537

	<u>Annual Gross Income</u>						65538
	<u>Expressed as a Percentage of FPL</u>						65539
<u>Inpatient</u>	<u>0 -</u>	<u>176 -</u>	<u>200 -</u>	<u>250 -</u>	<u>300 -</u>	<u>350 -</u>	65540
<u>Days at a</u>	<u>175</u>	<u>199</u>	<u>249</u>	<u>299</u>	<u>349</u>	<u>400</u>	65541
<u>Hospital</u>							65542
	<u>Percentage discount from charged amount</u>						65543
<u>1 - 14</u>	<u>100</u>	<u>90</u>	<u>70</u>	<u>50</u>	<u>30</u>	<u>10</u>	65544
<u>15 - 30</u>	<u>100</u>	<u>95</u>	<u>75</u>	<u>55</u>	<u>35</u>	<u>15</u>	65545

(B) A patient, estate, or relative who is charged a 65546
discounted amount for the first thirty days the patient is 65547
admitted as an inpatient and who has an annual income not greater 65548
than one hundred seventy-five per cent of the federal poverty 65549
level shall not be charged for the days the patient is admitted 65550
beyond the thirtieth day. 65551

(C) A patient, estate, or relative who is charged a 65552

discounted amount for the first thirty days the patient is 65553
admitted as an inpatient and who has an annual income greater than 65554
one hundred seventy-five per cent of the federal poverty level 65555
shall be charged an amount equal to the sum of the following for 65556
the days the patient is admitted beyond the thirtieth day: 65557

(1) The ancillary per diem rate multiplied by the number of 65558
days the patient was admitted to the hospital; 65559

(2) An amount that was previously charged but not paid. 65560

Sec. 5121.42. (A) Except as provided in division (B) of this 65561
section, a patient, patient's estate, or liable relative shall 65562
cease to be eligible for a discount under sections 5121.36 or 65563
5121.37 of the Revised Code on accumulation of countable assets in 65564
excess of an amount equal to fifty per cent of the difference 65565
between the following: 65566

(1) The gross annual income that corresponds with a family 65567
size of two persons at one hundred per cent of the federal poverty 65568
level for the state; 65569

(2) The gross annual income that corresponds with a family 65570
size of one person at one hundred per cent of the federal poverty 65571
level for the state. 65572

(B) Money needed to meet the patient's needs and burial fund 65573
as determined by a needs assessment conducted by the department of 65574
mental health pursuant to rules adopted under section 5119.01 of 65575
the Revised Code shall be excluded from any determination the 65576
department makes under division (A) of this section. 65577

Sec. 5121.43. If a patient is covered by an insurance policy 65578
or other contract that provides for payment of expenses for care 65579
and treatment for mental illness at or from a hospital under the 65580
jurisdiction of the department of mental health, sections 5121.33 65581

to 5121.55 of the Revised Code are inapplicable to the extent that 65582
the policy or contract is in force. Any insurance carrier or other 65583
third party payor providing coverage for such care and treatment 65584
shall pay for the patient's support obligation in amounts equal to 65585
the lesser of amounts charged by the department under section 65586
5121.33 of the Revised Code or the benefits provided under the 65587
policy or other contract. Whether or not an insured, owner of, or 65588
other person having an interest in such policy or other contract 65589
is liable for support payments, the insured, policy owner, or 65590
other person shall assign payment directly to the department of 65591
all assignable benefits under the policy or other contract and 65592
shall pay to the department, within ten days of receipt, all 65593
insurance or other benefits received as reimbursement or payment 65594
for expenses incurred by the patient or for any other reason. If 65595
the insured, policy owner, or other person refuses to assign 65596
payment to the department or refuses to pay received 65597
reimbursements or payments to the department within ten days of 65598
receipt, the total liability of the insured, policy owner, or 65599
other person for the services is an amount equal to the per diem 65600
charge for the hospital where the patient was admitted multiplied 65601
by the number of days the patient was admitted. 65602

In no event shall this total liability exceed the 65603
department's actual cost of providing care and treatment to a 65604
patient. The department may disqualify patients and liable 65605
relatives who have retained third party funds from future 65606
discounts. The department may request that the attorney general 65607
petition a court of competent jurisdiction to compel the insured, 65608
owner of, or other person having an interest in the policy or 65609
contract to comply with the assignment requirements in this 65610
section. 65611

Sec. 5121.44. The department of mental health may enter into 65612

an extended payment agreement with a patient, patient's estate, or 65613
liable relative who has notified the department that the patient, 65614
estate, or relative cannot reasonably pay an amount the department 65615
has charged. In no case shall the department take a security 65616
interest, mortgage, or lien against the principal family residence 65617
of a patient or liable relative. 65618

Sec. 5121.45. (A) For purposes of this section, "delinquent 65619
payment" means an amount owed by a patient, patient's estate, or 65620
liable relative to the department of mental health for which the 65621
person has failed to do either of the following not later than 65622
ninety days after the service associated with the charge was 65623
incurred: 65624

(1) Make payment in full; 65625

(2) Make a payment in accordance with the terms of an 65626
agreement entered into under section 5121.44 of the Revised Code. 65627

(B) An action to enforce the collection of a delinquent 65628
payment shall be commenced not later than six years after the 65629
later of the following: 65630

(1) The last date the department received money to satisfy 65631
the delinquent payment; 65632

(2) The date the charge was due. 65633

(C) In all actions to enforce the collection of delinquent 65634
payments, a court of record shall receive into evidence the proof 65635
of claim document made by the state together with all debts and 65636
credits. The proof of claim document shall be prima-facie evidence 65637
of the facts stated in the document. 65638

Sec. 5121.46. The department of mental health shall not 65639
charge a liable relative under sections 5121.33 and 5121.35 of the 65640

<u>Revised Code who has done either of the following:</u>	65641
<u>(A) Paid all amounts charged by the department for the care</u>	65642
<u>and treatment of a particular patient for fifteen consecutive</u>	65643
<u>years;</u>	65644
<u>(B) Paid amounts charged by the department for the care and</u>	65645
<u>treatment of more than one patient for a total of fifteen</u>	65646
<u>consecutive years.</u>	65647
<u>Sec. 5121.47. Irrespective of the number of patients for</u>	65648
<u>which the department of mental health may charge a liable relative</u>	65649
<u>under sections 5121.33 or 5121.35 of the Revised Code, the</u>	65650
<u>department shall not charge a liable relative or group of liable</u>	65651
<u>relatives who are members of the same family unit for the support</u>	65652
<u>of more than one patient during the same period of time.</u>	65653
<u>Sec. 5121.48. The department shall accept voluntary payments</u>	65654
<u>from a patient, patient's estate, or liable relative in excess of</u>	65655
<u>a discounted amount charged in accordance with section 5121.35 of</u>	65656
<u>the Revised Code.</u>	65657
<u>Sec. 5121.49. (A) Any person who has been charged under</u>	65658
<u>section 5121.33 or 5121.35 of the Revised Code may petition the</u>	65659
<u>department of mental health to do the following:</u>	65660
<u>(1) Release the person from a charge;</u>	65661
<u>(2) Modify or cancel a charge.</u>	65662
<u>(B) The department shall respond to a petition in writing and</u>	65663
<u>inform the petitioner of whether a release, modification, or</u>	65664
<u>cancellation has been approved.</u>	65665
<u>Sec. 5121.50. When a patient is committed to a hospital</u>	65666
<u>pursuant to judicial proceedings, the judge ordering the</u>	65667

commitment shall: 65668

(A) Make a reliable report on the financial condition of the patient and of each liable relative, as provided in rules adopted by the director of mental health; 65669
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(B) Certify the report required under division (A) of this section to the managing officer of the hospital. The managing officer shall thereupon enter in the managing officer's records the name and address of any guardian appointed and of any relative liable for the patient's support. 65672
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Sec. 5121.51. In case the estate of any patient in a hospital is sufficient for the patient's support and no guardian has been appointed for such estate, the agent of the department of mental health shall petition the probate court of the proper county to appoint a guardian. 65677
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Sec. 5121.52. On the death of a person who is a patient, or has been a patient in a hospital, or on the death of a person responsible under section 5121.34 of the Revised Code for the support of a patient, the department of mental health may waive the presentation of any claim for support against the estate of such decedent, when in its judgment an otherwise dependent person will be directly benefited by the estate. Claims against an estate for support of a patient are subject to section 1339.51 and Chapter 2117. of the Revised Code, and shall be treated, and may be barred, the same as the claims of other creditors of the estate, pursuant to that section or chapter. 65682
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The department of mental health may accept from a guardian or trustee of a patient a contract agreeing to pay to the state from the property of the guardian's or trustee's ward before or at the death of the ward a fixed annual amount for the support of the 65693
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ward while the ward is a patient, with interest at four per cent 65697
per annum. A copy of the contract shall be filed in the probate 65698
court of the proper county and duly entered as a part of the 65699
records concerning the ward. 65700

Sec. 5121.53. The state shall bear the expense of the burial 65701
or cremation of an indigent patient who dies in a hospital if the 65702
body is not claimed for interment or cremation at the expense of 65703
friends or relatives, or is not delivered for anatomical purposes 65704
or for the study of embalming in accordance with section 1713.34 65705
of the Revised Code. The managing officer of the hospital shall 65706
provide at the grave of the patient or, if the patient's cremated 65707
remains are buried, at the grave of the patient's cremated 65708
remains, a metal, stone, or concrete marker on which shall be 65709
inscribed the name and age of the patient and the date of death. 65710

Sec. 5121.54. If payment of any amount due the state under 65711
the provisions of this chapter is made on account of a patient by 65712
any liable relative, as defined in section 5121.30 of the Revised 65713
Code, the relative may recover from the patient, the patient's 65714
guardian, or the executor or administrator of the patient's 65715
estate, the full amount of payment made by the liable relative; 65716
provided, that in no event may a relative recover in total more 65717
than the relative has paid the state, and provided, that in no 65718
event is the person from whom recovery is sought obliged to pay at 65719
a rate of support higher than the person would have paid had the 65720
state proceeded directly against that person. 65721

Sec. 5121.55. The cost for support of a client of 65722
state-operated community mental health services is an amount 65723
determined using guidelines the department of mental health shall 65724
issue. The guidelines shall be based on cost findings and 65725
rate-settings applicable to such services. 65726

Sec. 5121.56. The support and maintenance of patients 65727
confined in state hospitals for the mentally ill, including 65728
persons transferred to them from state correctional institutions, 65729
and also including persons under indictment or conviction for 65730
crime, shall be collected and paid in accordance with sections 65731
5121.30 to 5121.55 of the Revised Code. 65732

Sec. 5122.03. A patient admitted under section 5122.02 of the 65733
Revised Code who requests ~~his~~ release in writing, or whose release 65734
is requested in writing by ~~his~~ the patient's counsel, legal 65735
guardian, parent, spouse, or adult next of kin shall be released 65736
forthwith, except that when: 65737

(A) The patient was admitted on ~~his~~ the patient's own 65738
application and the request for release is made by a person other 65739
than the patient, release may be conditional upon the agreement of 65740
the patient; or 65741

(B) The chief clinical officer of the hospital, within three 65742
court days from the receipt of the request for release, files or 65743
causes to be filed with the court of the county where the patient 65744
is hospitalized or of the county where the patient is a resident, 65745
an affidavit under section 5122.11 of the Revised Code. Release 65746
may be postponed until the hearing held under section 5122.141 of 65747
the Revised Code. A telephone communication within three court 65748
days from the receipt of the request for release from the chief 65749
clinical officer to the court, indicating that the required 65750
affidavit has been mailed, is sufficient compliance with the time 65751
limit for filing such affidavit. 65752

Unless the patient is released within three days from the 65753
receipt of the request by the chief clinical officer, the request 65754
shall serve as a request for an initial hearing under section 65755
5122.141 of the Revised Code. If the court finds that the patient 65756

is a mentally ill person subject to hospitalization by court 65757
order, all provisions of this chapter with respect to involuntary 65758
hospitalization apply to such person. 65759

Judicial proceedings for hospitalization shall not be 65760
commenced with respect to a voluntary patient except pursuant to 65761
this section. 65762

Sections ~~5121.01 to 5121.10~~ 5121.30 to 5121.56 of the Revised 65763
Code apply to persons received in a hospital operated by the 65764
department of mental health on a voluntary application. 65765

The chief clinical officer of the hospital shall provide 65766
reasonable means and arrangements for informing patients of their 65767
rights to release as provided in this section and for assisting 65768
them in making and presenting requests for release or for a 65769
hearing under section 5122.141 of the Revised Code. 65770

Before a patient is released from a public hospital, the 65771
chief clinical officer shall, when possible, notify the board of 65772
the patient's county of residence of the patient's pending release 65773
after ~~he~~ the chief clinical officer has informed the patient that 65774
the board will be so notified. 65775

Sec. 5122.31. (A) All certificates, applications, records, 65776
and reports made for the purpose of this chapter and sections 65777
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 65778
Code, other than court journal entries or court docket entries, 65779
and directly or indirectly identifying a patient or former patient 65780
or person whose hospitalization has been sought under this 65781
chapter, shall be kept confidential and shall not be disclosed by 65782
any person except: 65783

~~(A)(1)~~ If the person identified, or the person's legal 65784
guardian, if any, or if the person is a minor, the person's parent 65785
or legal guardian, consents, and if the disclosure is in the best 65786

interests of the person, as may be determined by the court for 65787
judicial records and by the chief clinical officer for medical 65788
records; 65789

~~(B)~~(2) When disclosure is provided for in this chapter or 65790
section 5123.60 of the Revised Code; 65791

~~(C)~~(3) That hospitals, boards of alcohol, drug addiction, and 65792
mental health services, and community mental health agencies may 65793
release necessary medical information to insurers and other 65794
third-party payers, including government entities responsible for 65795
processing and authorizing payment, to obtain payment for goods 65796
and services furnished to the patient; 65797

~~(D)~~(4) Pursuant to a court order signed by a judge; 65798

~~(E)~~(5) That a patient shall be granted access to the 65799
patient's own psychiatric and medical records, unless access 65800
specifically is restricted in a patient's treatment plan for clear 65801
treatment reasons; 65802

~~(F)~~(6) That hospitals and other institutions and facilities 65803
within the department of mental health may exchange psychiatric 65804
records and other pertinent information with other hospitals, 65805
institutions, and facilities of the department, and with community 65806
mental health agencies and boards of alcohol, drug addiction, and 65807
mental health services with which the department has a current 65808
agreement for patient care or services. Records and information 65809
that may be released pursuant to this division shall be limited to 65810
medication history, physical health status and history, financial 65811
status, summary of course of treatment in the hospital, summary of 65812
treatment needs, and a discharge summary, if any. 65813

~~(G)~~(7) That a patient's family member who is involved in the 65814
provision, planning, and monitoring of services to the patient may 65815
receive medication information, a summary of the patient's 65816
diagnosis and prognosis, and a list of the services and personnel 65817

available to assist the patient and the patient's family, if the 65818
patient's treating physician determines that the disclosure would 65819
be in the best interests of the patient. No such disclosure shall 65820
be made unless the patient is notified first and receives the 65821
information and does not object to the disclosure. 65822

~~(H)~~(8) That community mental health agencies may exchange 65823
psychiatric records and certain other information with the board 65824
of alcohol, drug addiction, and mental health services and other 65825
agencies in order to provide services to a person involuntarily 65826
committed to a board. Release of records under this division shall 65827
be limited to medication history, physical health status and 65828
history, financial status, summary of course of treatment, summary 65829
of treatment needs, and discharge summary, if any. 65830

~~(I)~~(9) That information may be disclosed to the executor or 65831
the administrator of an estate of a deceased patient when the 65832
information is necessary to administer the estate; 65833

~~(J)~~(10) That records in the possession of the Ohio historical 65834
society may be released to the closest living relative of a 65835
deceased patient upon request of that relative; 65836

~~(K)~~(11) That information may be disclosed to staff members of 65837
the appropriate board or to staff members designated by the 65838
director of mental health for the purpose of evaluating the 65839
quality, effectiveness, and efficiency of services and determining 65840
if the services meet minimum standards. Information obtained 65841
during such evaluations shall not be retained with the name of any 65842
patient. 65843

~~(L)~~(12) That records pertaining to the patient's diagnosis, 65844
course of treatment, treatment needs, and prognosis shall be 65845
disclosed and released to the appropriate prosecuting attorney if 65846
the patient was committed pursuant to section 2945.38, 2945.39, 65847
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 65848

attorney designated by the board for proceedings pursuant to 65849
involuntary commitment under this chapter. 65850

~~(M)~~(13) That the department of mental health may exchange 65851
psychiatric hospitalization records, other mental health treatment 65852
records, and other pertinent information with the department of 65853
rehabilitation and correction to ensure continuity of care for 65854
inmates who are receiving mental health services in an institution 65855
of the department of rehabilitation and correction. The department 65856
shall not disclose those records unless the inmate is notified, 65857
receives the information, and does not object to the disclosure. 65858
The release of records under this division is limited to records 65859
regarding an inmate's medication history, physical health status 65860
and history, summary of course of treatment, summary of treatment 65861
needs, and a discharge summary, if any. 65862

~~(N)~~(14) That a community mental health agency that ceases to 65863
operate may transfer to either a community mental health agency 65864
that assumes its caseload or to the board of alcohol, drug 65865
addiction, and mental health services of the service district in 65866
which the patient resided at the time services were most recently 65867
provided any treatment records that have not been transferred 65868
elsewhere at the patient's request. 65869

~~(O)~~(B) Before records are disclosed pursuant to divisions 65870
~~(C)~~(A)(3), ~~(F)~~(6), and ~~(H)~~(8) of this section, the custodian of 65871
the records shall attempt to obtain the patient's consent for the 65872
disclosure. No person shall reveal the contents of a medical 65873
record of a patient except as authorized by law. 65874

(C) The managing officer of a hospital who releases necessary 65875
medical information under division (A)(3) of this section to allow 65876
an insurance carrier or other third party payor to comply with 65877
section 5121.43 of the Revised Code shall neither be subject to 65878
criminal nor civil liability. 65879

Sec. 5123.01. As used in this chapter: 65880

(A) "Chief medical officer" means the licensed physician 65881
appointed by the managing officer of an institution for the 65882
mentally retarded with the approval of the director of mental 65883
retardation and developmental disabilities to provide medical 65884
treatment for residents of the institution. 65885

(B) "Chief program director" means a person with special 65886
training and experience in the diagnosis and management of the 65887
mentally retarded, certified according to division (C) of this 65888
section in at least one of the designated fields, and appointed by 65889
the managing officer of an institution for the mentally retarded 65890
with the approval of the director to provide habilitation and care 65891
for residents of the institution. 65892

(C) "Comprehensive evaluation" means a study, including a 65893
sequence of observations and examinations, of a person leading to 65894
conclusions and recommendations formulated jointly, with 65895
dissenting opinions if any, by a group of persons with special 65896
training and experience in the diagnosis and management of persons 65897
with mental retardation or a developmental disability, which group 65898
shall include individuals who are professionally qualified in the 65899
fields of medicine, psychology, and social work, together with 65900
such other specialists as the individual case may require. 65901

(D) "Education" means the process of formal training and 65902
instruction to facilitate the intellectual and emotional 65903
development of residents. 65904

(E) "Habilitation" means the process by which the staff of 65905
the institution assists the resident in acquiring and maintaining 65906
those life skills that enable the resident to cope more 65907
effectively with the demands of the resident's own person and of 65908
the resident's environment and in raising the level of the 65909

resident's physical, mental, social, and vocational efficiency. 65910
Habilitation includes but is not limited to programs of formal, 65911
structured education and training. 65912

~~(F) "Habilitation center services" means services provided by~~ 65913
~~a habilitation center certified by the department of mental~~ 65914
~~retardation and developmental disabilities under section 5123.041~~ 65915
~~of the Revised Code and covered by the medicaid program pursuant~~ 65916
~~to rules adopted under section 5111.041 of the Revised Code.~~ 65917

~~(G)~~ "Health officer" means any public health physician, 65918
public health nurse, or other person authorized or designated by a 65919
city or general health district. 65920

~~(H)~~(G) "Home and community-based services" means 65921
medicaid-funded home and community-based services specified in 65922
division (B)(1) of section 5111.87 of the Revised Code provided 65923
under the medicaid waiver components the department of mental 65924
retardation and developmental disabilities administers pursuant to 65925
section 5111.871 of the Revised Code. 65926

~~(I)~~(H) "Indigent person" means a person who is unable, 65927
without substantial financial hardship, to provide for the payment 65928
of an attorney and for other necessary expenses of legal 65929
representation, including expert testimony. 65930

~~(J)~~(I) "Institution" means a public or private facility, or a 65931
part of a public or private facility, that is licensed by the 65932
appropriate state department and is equipped to provide 65933
residential habilitation, care, and treatment for the mentally 65934
retarded. 65935

~~(K)~~(J) "Licensed physician" means a person who holds a valid 65936
certificate issued under Chapter 4731. of the Revised Code 65937
authorizing the person to practice medicine and surgery or 65938
osteopathic medicine and surgery, or a medical officer of the 65939
government of the United States while in the performance of the 65940

officer's official duties. 65941

~~(I)~~(K) "Managing officer" means a person who is appointed by 65942
the director of mental retardation and developmental disabilities 65943
to be in executive control of an institution for the mentally 65944
retarded under the jurisdiction of the department. 65945

~~(M)~~(L) "Medicaid" has the same meaning as in section 5111.01 65946
of the Revised Code. 65947

~~(N)~~(M) "Medicaid case management services" means case 65948
management services provided to an individual with mental 65949
retardation or other developmental disability that the state 65950
medicaid plan requires. 65951

~~(O)~~(N) "Mentally retarded person" means a person having 65952
significantly subaverage general intellectual functioning existing 65953
concurrently with deficiencies in adaptive behavior, manifested 65954
during the developmental period. 65955

~~(P)~~(O) "Mentally retarded person subject to 65956
institutionalization by court order" means a person eighteen years 65957
of age or older who is at least moderately mentally retarded and 65958
in relation to whom, because of the person's retardation, either 65959
of the following conditions exist: 65960

(1) The person represents a very substantial risk of physical 65961
impairment or injury to self as manifested by evidence that the 65962
person is unable to provide for and is not providing for the 65963
person's most basic physical needs and that provision for those 65964
needs is not available in the community; 65965

(2) The person needs and is susceptible to significant 65966
habilitation in an institution. 65967

~~(Q)~~(P) "A person who is at least moderately mentally 65968
retarded" means a person who is found, following a comprehensive 65969
evaluation, to be impaired in adaptive behavior to a moderate 65970

degree and to be functioning at the moderate level of intellectual 65971
functioning in accordance with standard measurements as recorded 65972
in the most current revision of the manual of terminology and 65973
classification in mental retardation published by the American 65974
association on mental retardation. 65975

~~(R)~~(O) As used in this division, "substantial functional 65976
limitation," "developmental delay," and "established risk" have 65977
the meanings established pursuant to section 5123.011 of the 65978
Revised Code. 65979

"Developmental disability" means a severe, chronic disability 65980
that is characterized by all of the following: 65981

(1) It is attributable to a mental or physical impairment or 65982
a combination of mental and physical impairments, other than a 65983
mental or physical impairment solely caused by mental illness as 65984
defined in division (A) of section 5122.01 of the Revised Code. 65985

(2) It is manifested before age twenty-two. 65986

(3) It is likely to continue indefinitely. 65987

(4) It results in one of the following: 65988

(a) In the case of a person under three years of age, at 65989
least one developmental delay or an established risk; 65990

(b) In the case of a person at least three years of age but 65991
under six years of age, at least two developmental delays or an 65992
established risk; 65993

(c) In the case of a person six years of age or older, a 65994
substantial functional limitation in at least three of the 65995
following areas of major life activity, as appropriate for the 65996
person's age: self-care, receptive and expressive language, 65997
learning, mobility, self-direction, capacity for independent 65998
living, and, if the person is at least sixteen years of age, 65999
capacity for economic self-sufficiency. 66000

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

~~(S)~~(R) "Developmentally disabled person" means a person with a developmental disability.

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

~~(U)~~(T) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of job and family services, the department of mental health, or the department of mental retardation and developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or home. Settlement once acquired shall continue until a person has been continuously absent from Ohio for a period of one year or has acquired a legal residence in another state. A woman who marries a

man with legal settlement in any county immediately acquires the 66033
settlement of her husband. The legal settlement of a minor is that 66034
of the parents, surviving parent, sole parent, parent who is 66035
designated the residential parent and legal custodian by a court, 66036
other adult having permanent custody awarded by a court, or 66037
guardian of the person of the minor, provided that: 66038

(1) A minor female who marries shall be considered to have 66039
the legal settlement of her husband and, in the case of death of 66040
her husband or divorce, she shall not thereby lose her legal 66041
settlement obtained by the marriage. 66042

(2) A minor male who marries, establishes a home, and who has 66043
resided in this state for one year without receiving general 66044
assistance prior to July 17, 1995, under former Chapter 5113. of 66045
the Revised Code, financial assistance under Chapter 5115. of the 66046
Revised Code, or assistance from a private agency that maintains 66047
records of assistance given shall be considered to have obtained a 66048
legal settlement in this state. 66049

(3) The legal settlement of a child under eighteen years of 66050
age who is in the care or custody of a public or private child 66051
caring agency shall not change if the legal settlement of the 66052
parent changes until after the child has been in the home of the 66053
parent for a period of one year. 66054

No person, adult or minor, may establish a legal settlement 66055
in this state for the purpose of gaining admission to any state 66056
institution. 66057

~~(V)~~(U)(1) "Resident" means, subject to division (R)(2) of 66058
this section, a person who is admitted either voluntarily or 66059
involuntarily to an institution or other facility pursuant to 66060
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 66061
Code subsequent to a finding of not guilty by reason of insanity 66062
or incompetence to stand trial or under this chapter who is under 66063

observation or receiving habilitation and care in an institution. 66064

(2) "Resident" does not include a person admitted to an 66065
institution or other facility under section 2945.39, 2945.40, 66066
2945.401, or 2945.402 of the Revised Code to the extent that the 66067
reference in this chapter to resident, or the context in which the 66068
reference occurs, is in conflict with any provision of sections 66069
2945.37 to 2945.402 of the Revised Code. 66070

~~(W)~~(V) "Respondent" means the person whose detention, 66071
commitment, or continued commitment is being sought in any 66072
proceeding under this chapter. 66073

~~(X)~~(W) "Working day" and "court day" mean Monday, Tuesday, 66074
Wednesday, Thursday, and Friday, except when such day is a legal 66075
holiday. 66076

~~(Y)~~(X) "Prosecutor" means the prosecuting attorney, village 66077
solicitor, city director of law, or similar chief legal officer 66078
who prosecuted a criminal case in which a person was found not 66079
guilty by reason of insanity, who would have had the authority to 66080
prosecute a criminal case against a person if the person had not 66081
been found incompetent to stand trial, or who prosecuted a case in 66082
which a person was found guilty. 66083

~~(Z)~~(Y) "Court" means the probate division of the court of 66084
common pleas. 66085

Sec. 5123.045. ~~(A)~~ No person or government entity shall 66086
receive payment for providing home and community-based services 66087
unless the person or government entity is one of the following: 66088

~~(1)~~(A) Certified under ~~this~~ section 5123.16 of the Revised 66089
Code; 66090

~~(2)~~ Certified as a supported living provider under section 66091
~~5126.431 of the Revised Code~~; 66092

~~(3)~~(B) Licensed as a residential facility under section 66093

~~5123.19 of the Revised Code. Division (A)(3) of this section does 66094
not apply to an intermediate care facility for the mentally 66095
retarded as defined in section 5111.20 of the Revised Code. 66096~~

~~(B) The department of mental retardation and developmental 66097
disabilities shall do all of the following in accordance with 66098
Chapter 119. of the Revised Code: 66099~~

~~(1) Certify a person or government entity to provide home and 66100
community based services if the person or government entity 66101
satisfies the requirements for certification established by rules 66102
adopted under division (C) of this section; 66103~~

~~(2) Revoke a certificate when required to do so by rules 66104
adopted under division (C) of this section; 66105~~

~~(3) Hold hearings when there is a dispute between the 66106
department and a person or government entity concerning actions 66107
the department takes or does not take under division (B)(1) or (2) 66108
of this section. 66109~~

~~(C) The director of mental retardation and developmental 66110
disabilities shall adopt rules in accordance with Chapter 119. of 66111
the Revised Code establishing certification requirements and 66112
procedures for a person or government entity that seeks to provide 66113
home and community based services and is not certified as a 66114
supported living provider under section 5126.431 of the Revised 66115
Code or licensed as a residential facility under section 5123.19 66116
of the Revised Code. The rules shall specify the program areas for 66117
which certification is required and include procedures for all of 66118
the following: 66119~~

~~(1) Ensuring that providers comply with section 5126.28 or 66120
5126.281 of the Revised Code, as appropriate; 66121~~

~~(2) Evaluating the services provided to ensure that they are 66122
provided in a quality manner advantageous to the individual 66123
receiving the services. The procedures shall require that all of 66124~~

~~the following be considered as part of an evaluation:~~ 66125

~~(a) The provider's experience and financial responsibility;~~ 66126

~~(b) The provider's ability to comply with standards for the
home and community based services that the provider provides;~~ 66127
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~~(c) The provider's ability to meet the needs of the
individuals served;~~ 66129
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~~(d) Any other factor the director considers relevant.~~ 66131

~~(3) Determining when to revoke a provider's certificate. The
reasons for which a certificate may be revoked may include good
cause, including misfeasance, malfeasance, nonfeasance, confirmed
abuse or neglect, financial irresponsibility, or other conduct the
director determines is injurious to individuals being served.~~ 66132
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~~(D) The records of an evaluation conducted in accordance with
rules adopted under division (C)(2) of this section are public
records for purposes of section 149.43 of the Revised Code and
shall be made available on request of any person, including
individuals being served, individuals seeking home and
community based services, and county boards of mental retardation
and developmental disabilities.~~ 66137
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Sec. 5123.046. The department of mental retardation and 66144
developmental disabilities shall review each component of the 66145
three-calendar year plan it receives from a county board of mental 66146
retardation and developmental disabilities under section 5126.054 66147
of the Revised Code and, in consultation with the department of 66148
job and family services and office of budget and management, 66149
approve each component that includes all the information and 66150
conditions specified in that section. The fourth component of the 66151
plan shall be approved or disapproved not later than forty-five 66152
days after the fourth component is submitted to the department 66153
under division (B)(3) of section 5126.054 of the Revised Code. If 66154

the department approves all four components of the plan, the plan 66155
is approved. Otherwise, the plan is disapproved. If the plan is 66156
disapproved, the department shall take action against the county 66157
board under division (B) of section 5126.056 of the Revised Code. 66158

In approving plans under this section, the department shall 66159
ensure that the aggregate of all plans provide for the increased 66160
enrollment into home and community-based services during each 66161
state fiscal year of at least five hundred individuals who did not 66162
receive residential services, supported living, or home and 66163
community-based services the prior state fiscal year if the 66164
department has enough additional enrollment available for this 66165
purpose. 66166

The department shall establish protocols that the department 66167
shall use to determine whether a county board is complying with 66168
the programmatic and financial accountability mechanisms and 66169
achieving outcomes specified in its approved plan. If the 66170
department determines that a county board is not in compliance 66171
with the mechanisms or achieving the outcomes specified in its 66172
approved plan, the department may take action under division 66173
(G)(F) of section 5126.055 of the Revised Code. 66174

Sec. 5123.047. (A) ~~The department of mental retardation and 66175
developmental disabilities shall pay the nonfederal share of 66176
medicaid expenditures for habilitation center services provided to 66177
an individual with mental retardation or other developmental 66178
disability unless section 5111.041 of the Revised Code requires a 66179
county board of mental retardation and developmental disabilities 66180
or a school district to pay the nonfederal share.~~ 66181

~~(B) The department of mental retardation and developmental 66182
disabilities shall pay the nonfederal share of medicaid 66183
expenditures for medicaid case management services if ~~either of 66184
the following apply:~~ 66185~~

~~(1) The the services are provided to an individual with 66186
mental retardation or other developmental disability who a county 66187
board of mental retardation and developmental disabilities has 66188
determined under section 5126.041 of the Revised Code is not 66189
eligible for county board services+ 66190~~

~~(2) The services are provided to an individual with mental 66191
retardation or other developmental disability by a public or 66192
private agency with which the department has contracted under 66193
section 5123.56 of the Revised Code to provide protective services 66194
to the individual. 66195~~

~~(C)(B) The department shall pay the nonfederal share of 66196
medicaid expenditures for home and community-based services if 66197
either any of the following apply: 66198~~

(1) The services are provided to an individual with mental 66199
retardation or other developmental disability who a county board 66200
has determined under section 5126.041 of the Revised Code is not 66201
eligible for county board services; 66202

(2) The services are provided to an individual with mental 66203
retardation or other developmental disability given priority for 66204
the services pursuant to division (D)(3) of section 5126.042 of 66205
the Revised Code. The department shall pay the nonfederal share of 66206
medicaid expenditures for home and community-based services 66207
provided to such an individual for as long as the individual 66208
continues to be eligible for and receive the services, regardless 66209
of whether the services are provided after June 30, 2003. 66210

(3) An agreement entered into under section 5123.048 of the 66211
Revised Code requires that the department pay the nonfederal share 66212
of medicaid expenditures for the services. 66213

Sec. 5123.048. The director of mental retardation and 66214
developmental disabilities may enter into an agreement with a 66215

county board of mental retardation and developmental disabilities 66216
under which the department of mental retardation and developmental 66217
disabilities is to pay the nonfederal share of medicaid 66218
expenditures for home and community-based services provided to 66219
individuals with mental retardation or other developmental 66220
disability residing in the county served by the county board. 66221

Sec. 5123.049. The director of mental retardation and 66222
developmental disabilities shall adopt rules in accordance with 66223
Chapter 119. of the Revised Code governing the authorization and 66224
payment of home and community-based services, and medicaid case 66225
management services, ~~and habilitation center services~~. The rules 66226
shall provide for private providers of the services to receive one 66227
hundred per cent of the medicaid allowable payment amount and for 66228
government providers of the services to receive the federal share 66229
of the medicaid allowable payment, less the amount withheld as a 66230
fee under section 5123.0412 of the Revised Code and any amount 66231
that may be required by rules adopted under section 5123.0413 of 66232
the Revised Code to be deposited into the state MR/DD risk fund. 66233
The rules shall establish the process by which county boards of 66234
mental retardation and developmental disabilities shall certify 66235
and provide the nonfederal share of medicaid expenditures that the 66236
county board is required by division (A) of section 5126.057 of 66237
the Revised Code to pay. The process shall require a county board 66238
to certify that the county board has funding available at one time 66239
for two months costs for those expenditures. The process may 66240
permit a county board to certify that the county board has funding 66241
available at one time for more than two months costs for those 66242
expenditures. 66243

Sec. 5123.0412. (A) The department of mental retardation and 66244
developmental disabilities shall charge each county board of 66245

mental retardation and developmental disabilities an annual fee 66246
equal to one and one-half per cent of the total value of all 66247
medicaid paid claims for medicaid case management services and 66248
home and community-based services ~~for which the county board~~ 66249
~~contracts or provides itself~~ provided during the year to an 66250
individual eligible for services from the county board. No county 66251
board shall pass the cost of a fee charged to the county board 66252
under this section on to a ~~person or government entity with which~~ 66253
~~the county board contracts to provide the~~ another provider of 66254
these services. 66255

(B) The fees collected under this section shall be deposited 66256
into the ODMR/DD administration and oversight fund and the ODJFS 66257
administration and oversight fund, both of which are hereby 66258
created in the state treasury. The portion of the fees to be 66259
deposited into the ODMR/DD administration and oversight fund and 66260
the portion of the fees to be deposited into the ODJFS 66261
administration and oversight fund shall be the portion specified 66262
in an interagency agreement entered into under division (C) of 66263
this section. The department of mental retardation and 66264
developmental disabilities shall use the money in the ODMR/DD 66265
administration and oversight fund and the department of job and 66266
family services shall use the money in the ODJFS administration 66267
and oversight fund for both of the following purposes: 66268

(1) The administrative and oversight costs of ~~habilitation~~ 66269
~~center services,~~ medicaid case management services, and home and 66270
community-based services ~~that a county board develops and monitors~~ 66271
~~and the county board or a person or government entity under~~ 66272
~~contract with the county board provides~~. The administrative and 66273
oversight costs shall include costs for staff, systems, and other 66274
resources the departments need and dedicate solely to the 66275
following duties associated with the services: 66276

(a) Eligibility determinations; 66277

(b) Training;	66278
(c) Fiscal management;	66279
(d) Claims processing;	66280
(e) Quality assurance oversight;	66281
(f) Other duties the departments identify.	66282
(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.	66283 66284 66285
(C) The departments of mental retardation and developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:	66286 66287 66288
(1) Specify which portion of the fees collected under this section is to be deposited into the ODMR/DD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;	66289 66290 66291 66292
(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund.	66293 66294 66295
(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.	66296 66297 66298 66299 66300
<u>Sec. 5123.16. (A) In accordance with Chapter 119. of the Revised Code, the director of mental retardation and developmental disabilities shall adopt and may amend and rescind rules for the certification of persons or government entities as described in division (A) of section 5123.045 of the Revised Code that provide or propose to provide home and community-based waiver services.</u>	66301 66302 66303 66304 66305 66306

<u>The rules shall establish or specify all of the following:</u>	66307
<u>(1) Procedures for issuing and renewing certification and establishing expiration dates for currently certified providers;</u>	66308
<u>(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking certification in accordance with this section and Chapter 119. of the Revised Code;</u>	66310
<u>(3) Procedures for ordering the suspension of a certified provider's certification;</u>	66313
<u>(4) Fees for issuing and renewing certification. All fees collected pursuant to this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby created. Money credited to the fund shall be used solely for the operation of the provider certification program established under this section.</u>	66315
<u>(5) Program services for which certification is required and provider standards for those services;</u>	66321
<u>(6) Procedures for certification;</u>	66323
<u>(7) Procedures for ensuring that providers comply with sections 5123.52 and 5126.281 of the Revised Code.</u>	66324
<u>(B) A provider's certification may be terminated when the certified provider has not billed for services for a period of more than twelve consecutive months and the provider has been notified in accordance with Chapter 119. of the Revised Code.</u>	66326
<u>(C) The director may suspend or revoke a provider's certification in accordance with Chapter 119. of the Revised Code for good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, noncompliance with provider certification standards, financial irresponsibility, or other conduct the department determines is injurious to individuals being served.</u>	66330

(D)(1) The director may suspend a certified provider's certification to serve one or more individuals currently served by the provider in one or more counties before providing an opportunity for an adjudication under Chapter 119. of the Revised Code when the director determines that the certified provider has demonstrated a pattern of serious noncompliance with certification standards or that a violation of certification standards creates a substantial risk to the health and safety of an individual served by the certified provider and both the following conditions are met: 66337
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(a) The individual or guardian, as appropriate, has been made aware of the patterns of serious noncompliance or violations of certification standards that create a substantial risk to the health and safety of the individual, and the individual or guardian does not choose to select another certified provider; and 66347
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(b) A county board of mental retardation and developmental disabilities has filed a complaint with the probate court in accordance with section 5126.33 of the Revised Code and the probate court does not issue an order authorizing the board to arrange protective services for the individual. 66352
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(2) The director may suspend a certified provider's certification to begin to serve one or more individuals not currently being served by the provider in one or more counties before providing an opportunity for an adjudication under Chapter 119. of the Revised Code when the director determines that the certified provider has demonstrated a pattern of serious noncompliance with certification standards or that a violation of certification standards creates a substantial risk to the health and safety of an individual served by the certified provider. 66357
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(3) Except as provided in division (D)(4) of this section, appeals from proceedings initiated to terminate a provider's 66366
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certification under division (B) of this section or to suspend or 66368
revoke a provider's certification under division (C) of this 66369
section shall be conducted in accordance with Chapter 119. of the 66370
Revised Code. 66371

(4) Appeals from proceedings initiated to order the 66372
suspension of a certified provider's certification shall be 66373
conducted in accordance with Chapter 119. of the Revised Code, 66374
unless the order was issued before providing an opportunity for an 66375
adjudication, in which case all of the following apply: 66376

(a) The department shall notify the certified provider within 66377
twenty-four hours of ordering of the suspension. 66378

(b) The certified provider may request a hearing not later 66379
than ten days after receiving the notice specified in section 66380
119.07 of the Revised Code. 66381

(c) If a timely request for a hearing is made, the hearing 66382
shall commence not later than thirty days after the department 66383
receives the request. 66384

(d) After commencing, the hearing shall continue, 66385
uninterrupted, except for Saturdays, Sundays, and legal holidays, 66386
unless other interruptions are agreed to by the provider and the 66387
director. 66388

(e) If the hearing is conducted by a hearing examiner, the 66389
hearing examiner shall file a report and recommendations not later 66390
than ten days after the close of the hearing. For purposes of 66391
division (D)(4)(d) of this section, the hearing shall not be 66392
considering closed until the hearing examiner receives the 66393
transcript of the hearing, if a transcript is ordered, and all 66394
post-hearing briefs, if any, are timely filed. 66395

(f) A copy of such written report and recommendations of the 66396
hearing examiner shall, within five days of the date of the filing 66397

thereof, be served upon the provider or the provider's attorney, 66398
by certified mail. 66399

(g) The provider may file objections to the report and 66400
recommendations not later than five days after the receipt of the 66401
report and recommendations. 66402

(h) No recommendation of the hearing examiner shall be 66403
approved, modified, or disapproved by the department until five 66404
days after service of the hearing examiner's report and 66405
recommendations upon the provider or the provider's attorney. 66406

(i) Not later than fifteen days after the service of such 66407
report and recommendations of the hearing examiner upon the 66408
provider or the provider's attorney, the director shall issue an 66409
order approving, modifying, or disapproving the report and 66410
recommendation. 66411

(j) The order shall be lifted when the provider has submitted 66412
an acceptable plan of compliance and the department determines the 66413
plan of compliance has been appropriately implemented. 66414

(k) Following the issuance of an adjudication order by the 66415
director, the provider may appeal the order in accordance with 66416
section 119.12 of the Revised Code. 66417

(l) Notwithstanding the pendency of the hearing, the director 66418
shall lift the order for the suspension of the certified 66419
provider's certification under division (D)(1) or (D)(2) of this 66420
section when the director determines that the violation that 66421
formed the basis for the order has been corrected. The hearing 66422
shall continue unless the provider withdraws, in writing, the 66423
appeal of the department's suspension. 66424

(E) All applicants for or holders of certification under this 66425
section shall maintain a current address with the director at all 66426
times. 66427

(F) An applicant whose certification has been denied in accordance with this section may not apply to become a certified provider within one year of the date of the applicant's denial of certification. A certified provider whose certification has been revoked in accordance with this section may not apply for certification within five years of the revocation of the certified provider's certification. 66428
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(G) The records of surveys of providers conducted in accordance with this section are public records for purposes of section 149.43 of the Revised Code and shall be made available upon request of any person, including individuals being served, individuals seeking home and community-based services, and county boards of mental retardation and developmental disabilities. 66435
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(H) The certification of a provider that is certified to provide home and community-based services on the effective date of this section shall remain in effect until the department establishes an expiration date for the certification unless the certification is voluntarily surrendered or terminated, suspended or revoked in accordance with this section. 66441
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(I) As used in this section, "home and community-based services" has the same meaning as in section 5126.01 of the Revised Code. 66447
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(J) The director of mental retardation and developmental disabilities shall not apply any provisions of sections 5126.40 to 5126.47 of the Revised Code to any provider of home and community-based services certified under this section. 66450
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Sec. 5123.34. This chapter attempts to do all of the following: 66454
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(A) Provide humane and scientific treatment and care and the highest attainable degree of individual development for persons 66456
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with mental retardation or a developmental disability; 66458

(B) Promote the study of the causes of mental retardation and 66459
developmental disabilities, with a view to ultimate prevention; 66460

(C) Secure by uniform and systematic management the highest 66461
attainable degree of economy in the administration of the 66462
institutions under the control of the department of mental 66463
retardation and developmental disabilities. 66464

Sections 5123.02 to 5123.04, ~~5123.041 to 5123.042~~, 5123.043, 66465
5123.10, 5123.21, 5123.221, 5123.25, and 5123.31 of the Revised 66466
Code shall be liberally construed to attain these purposes. 66467

Sec. 5123.41. As used in this section and sections 5123.42 to 66468
5123.47 of the Revised Code: 66469

(A) "Adult services" has the same meaning as in section 66470
5126.01 of the Revised Code. 66471

(B) "Certified home and community-based services provider" 66472
means a person or government entity certified under section 66473
~~5123.045~~ 5123.16 of the Revised Code. 66474

(C) "Certified supported living provider" means a person or 66475
government entity certified under section 5126.431 of the Revised 66476
Code. 66477

(D) "Drug" has the same meaning as in section 4729.01 of the 66478
Revised Code. 66479

(E) "Family support services" has the same meaning as in 66480
section 5126.01 of the Revised Code. 66481

(F) "Health-related activities" means the following: 66482

(1) Taking vital signs; 66483

(2) Application of clean dressings that do not require health 66484
assessment; 66485

(3) Basic measurement of bodily intake and output;	66486
(4) Oral suctioning;	66487
(5) Use of glucometers;	66488
(6) External urinary catheter care;	66489
(7) Emptying and replacing colostomy bags;	66490
(8) Collection of specimens by noninvasive means.	66491
(G) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.	66492 66493 66494
(H) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.	66495 66496
(I) "MR/DD personnel" means the employees and the workers under contract who provide specialized services to individuals with mental retardation and developmental disabilities. "MR/DD personnel" includes those who provide the services as follows:	66497 66498 66499 66500
(1) Through direct employment with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities;	66501 66502 66503
(2) Through an entity under contract with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities;	66504 66505 66506
(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities.	66507 66508 66509
(J) "Nursing delegation" means the process established in rules adopted by the board of nursing pursuant to Chapter 4723. of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers the performance of a particular nursing activity or task	66510 66511 66512 66513 66514

to another person who is not otherwise authorized to perform the activity or task. 66515
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(K) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health professional authorized to prescribe drugs. 66517
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(L) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code or subject to section 5123.192 of the Revised Code. 66520
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(M) "Specialized services" has the same meaning as in section 5123.50 of the Revised Code. 66523
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(N) "Tube feeding" means the provision of nutrition to an individual through a gastrostomy tube or a jejunostomy tube. 66525
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Sec. 5123.701. (A) Except as provided in division (E) of this section, any person in the community who is eighteen years of age or older and who is or believes self to be mentally retarded may make written application to the managing officer of any institution for temporary admission for short-term care. The application may be made on behalf of a minor by a parent or guardian, and on behalf of an adult adjudicated mentally incompetent by a guardian. 66527
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(B) For purposes of this section, short-term care shall be defined to mean appropriate services provided to a person with mental retardation for no more than fourteen consecutive days and for no more than forty-two days in a fiscal year. When circumstances warrant, the fourteen-day period may be extended at the discretion of the managing officer. Short-term care is provided in a developmental center to meet the family's or caretaker's needs for separation from the person with mental retardation. 66535
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(C) The managing officer of an institution, with the 66544

concurrence of the chief program director, may admit a person for
short-term care only after a medical examination has been made of
the person and only if the managing officer concludes that the
person is mentally retarded.

(D) If application for admission for short-term care of a
minor or of a person adjudicated mentally incompetent is made by
the minor's parent or guardian or by the incompetent's guardian
and the minor or incompetent is admitted, the probate division of
the court of common pleas shall determine, upon petition by the
legal rights service, whether the admission for short-term care is
in the best interest of the minor or the incompetent.

(E) A person who is found not guilty by reason of insanity
shall not admit self to an institution for short-term care unless
a hearing was held regarding the person pursuant to division (A)
of section 2945.40 of the Revised Code and either of the following
applies:

(1) The person was found at the hearing not to be a mentally
retarded person subject to institutionalization by court order;

(2) The person was found at the hearing to be a mentally
retarded person subject to institutionalization by court order,
was involuntarily committed, and was finally discharged.

(F) The mentally retarded person, liable relatives, and
guardians of mentally retarded persons admitted for respite care
shall pay support charges in accordance with sections ~~5121.03~~
5121.01 to ~~5121.07~~ 5121.21 of the Revised Code.

(G) At the conclusion of each period of short-term care, the
person shall return to the person's family or caretaker. Under no
circumstances shall a person admitted for short-term care
according to this section remain in the institution after the
period of short-term care unless the person is admitted according
to section 5123.70, sections 5123.71 to 5123.76, or section

2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code. 66576
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Sec. 5123.71. (A)(1) Proceedings for the involuntary 66578
institutionalization of a person pursuant to sections 5123.71 to 66579
5123.76 of the Revised Code shall be commenced by the filing of an 66580
affidavit with the probate division of the court of common pleas 66581
of the county where the person resides or where the person is 66582
institutionalized, in the manner and form prescribed by the 66583
department of mental retardation and developmental disabilities 66584
either on information or actual knowledge, whichever is determined 66585
to be proper by the court. The affidavit may be filed only by a 66586
person who has custody of the individual as a parent, guardian, or 66587
service provider or by a person acting on behalf of the department 66588
or a county board of mental retardation and developmental 66589
disabilities. This section does not apply regarding the 66590
institutionalization of a person pursuant to section 2945.39, 66591
2945.40, 2945.401, or 2945.402 of the Revised Code. 66592

The affidavit shall contain an allegation setting forth the 66593
specific category or categories under division ~~(P)~~(O) of section 66594
5123.01 of the Revised Code upon which the commencement of 66595
proceedings is based and a statement of the factual ground for the 66596
belief that the person is a mentally retarded person subject to 66597
institutionalization by court order. Except as provided in 66598
division (A)(2) of this section, the affidavit shall be 66599
accompanied by both of the following: 66600

(a) A comprehensive evaluation report prepared by the 66601
person's evaluation team that includes a statement by the members 66602
of the team certifying that they have performed a comprehensive 66603
evaluation of the person and that they are of the opinion that the 66604
person is a mentally retarded person subject to 66605
institutionalization by court order; 66606

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

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

A written report of the evaluation team's findings and the
county board's assessment shall be filed with the court. The
reports shall, consistent with the rules of evidence, be accepted
as probative evidence in any proceeding under section 5123.75 or
5123.76 of the Revised Code. If the counsel for the person who is
evaluated or assessed is known, the court shall send to the
counsel a copy of the reports as soon as possible after they are
filed and prior to any proceedings under section 5123.75 or
5123.76 of the Revised Code.

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

(1) Immediately make a reasonable number of telephone calls 66638
or use other reasonable means to contact an attorney, a physician, 66639
or both, to contact any other person or persons to secure 66640
representation by counsel, or to obtain medical assistance, and be 66641
provided assistance in making calls if the assistance is needed 66642
and requested; 66643

(2) Retain counsel and have independent expert evaluation 66644
and, if the person is an indigent person, be represented by 66645
court-appointed counsel and have independent expert evaluation at 66646
court expense; 66647

(3) Upon request, have a hearing to determine whether there 66648
is probable cause to believe that the person is a mentally 66649
retarded person subject to institutionalization by court order. 66650

(C) No person who is being treated by spiritual means through 66651
prayer alone in accordance with a recognized religious method of 66652
healing may be ordered detained or involuntarily committed unless 66653
the court has determined that the person represents a very 66654
substantial risk of self-impairment, self-injury, or impairment or 66655
injury to others. 66656

Sec. 5123.76. (A) The full hearing shall be conducted in a 66657
manner consistent with the procedures outlined in this chapter and 66658
with due process of law. The hearing shall be held by a judge of 66659
the probate division or, upon transfer by the judge of the probate 66660
division, by another judge of the court of common pleas, or a 66661
referee designated by the judge of the probate division. Any 66662
referee designated by the judge of the probate division must be an 66663
attorney. 66664

(1) The following shall be made available to counsel for the 66665
respondent: 66666

(a) All relevant documents, information, and evidence in the 66667

custody or control of the state or prosecutor; 66668

(b) All relevant documents, information, and evidence in the 66669
custody or control of the institution, facility, or program in 66670
which the respondent currently is held or in which the respondent 66671
has been held pursuant to these proceedings; 66672

(c) With the consent of the respondent, all relevant 66673
documents, information, and evidence in the custody or control of 66674
any institution or person other than the state. 66675

(2) The respondent has the right to be represented by counsel 66676
of the respondent's choice and has the right to attend the hearing 66677
except if unusual circumstances of compelling medical necessity 66678
exist that render the respondent unable to attend and the 66679
respondent has not expressed a desire to attend. 66680

(3) If the respondent is not represented by counsel and the 66681
court determines that the conditions specified in division (A)(2) 66682
of this section justify the respondent's absence and the right to 66683
counsel has not been validly waived, the court shall appoint 66684
counsel forthwith to represent the respondent at the hearing, 66685
reserving the right to tax costs of appointed counsel to the 66686
respondent unless it is shown that the respondent is indigent. If 66687
the court appoints counsel, or if the court determines that the 66688
evidence relevant to the respondent's absence does not justify the 66689
absence, the court shall continue the case. 66690

(4) The respondent shall be informed of the right to retain 66691
counsel, to have independent expert evaluation, and, if an 66692
indigent person, to be represented by court appointed counsel and 66693
have expert independent evaluation at court expense. 66694

(5) The hearing may be closed to the public unless counsel 66695
for the respondent requests that the hearing be open to the 66696
public. 66697

(6) Unless objected to by the respondent, the respondent's 66698
counsel, or the designee of the director of mental retardation and 66699
developmental disabilities, the court, for good cause shown, may 66700
admit persons having a legitimate interest in the proceedings. 66701

(7) The affiant under section 5123.71 of the Revised Code 66702
shall be subject to subpoena by either party. 66703

(8) The court shall examine the sufficiency of all documents 66704
filed and shall inform the respondent, if present, and the 66705
respondent's counsel of the nature of the content of the documents 66706
and the reason for which the respondent is being held or for which 66707
the respondent's placement is being sought. 66708

(9) The court shall receive only relevant, competent, and 66709
material evidence. 66710

(10) The designee of the director shall present the evidence 66711
for the state. In proceedings under this chapter, the attorney 66712
general shall present the comprehensive evaluation, assessment, 66713
diagnosis, prognosis, record of habilitation and care, if any, and 66714
less restrictive habilitation plans, if any. The attorney general 66715
does not have a similar presentation responsibility in connection 66716
with a person who has been found not guilty by reason of insanity 66717
and who is the subject of a hearing under section 2945.40 of the 66718
Revised Code to determine whether the person is a mentally 66719
retarded person subject to institutionalization by court order. 66720

(11) The respondent has the right to testify and the 66721
respondent or the respondent's counsel has the right to subpoena 66722
witnesses and documents and to present and cross-examine 66723
witnesses. 66724

(12) The respondent shall not be compelled to testify and 66725
shall be so advised by the court. 66726

(13) On motion of the respondent or the respondent's counsel 66727

for good cause shown, or upon the court's own motion, the court
may order a continuance of the hearing.

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

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

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

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

(2) A private institution;

(3) A county mental retardation program;

(4) Receive private habilitation and care;

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

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

respondent.

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

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

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

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

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

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(G)(1) Except as provided in divisions (G)(2) and (3) of this section, any person who has been committed under this section may apply at any time during the ninety-day period for voluntary admission to an institution under section 5123.69 of the Revised Code. Upon admission of a voluntary resident, the managing officer immediately shall notify the court, the respondent's counsel, and the designee of the director in writing of that fact by mail or otherwise, and, upon receipt of the notice, the court shall dismiss the case.

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

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

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

(2) A hearing on the first application for continued commitment shall be held at the expiration of the first ninety-day period. The hearing shall be mandatory and may not be waived.

(3) Subsequent periods of commitment not to exceed one hundred eighty days each may be ordered by the court if the

designee of the director of mental retardation and developmental disabilities files an application for continued commitment, after a hearing is held on the application or without a hearing if no hearing is requested and no hearing required under division (H)(4) of this section is waived. Upon the application of a person involuntarily committed under this section, supported by an affidavit of a licensed physician alleging that the person is no longer a mentally retarded person subject to institutionalization by court order, the court for good cause shown may hold a full hearing on the person's continued commitment prior to the expiration of any subsequent period of commitment set by the court.

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

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

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

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

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or

service under Chapter 3323. of the Revised Code and an individual 66849
sixteen or seventeen years of age who is eligible for adult 66850
services under rules adopted by the director of mental retardation 66851
and developmental disabilities pursuant to Chapter 119. of the 66852
Revised Code. 66853

(1) "Adult services" means services provided to an adult 66854
outside the home, except when they are provided within the home 66855
according to an individual's assessed needs and identified in an 66856
individual service plan, that support learning and assistance in 66857
the area of self-care, sensory and motor development, 66858
socialization, daily living skills, communication, community 66859
living, social skills, or vocational skills. 66860

(2) "Adult services" includes all of the following: 66861

(a) Adult day habilitation services; 66862

(b) Adult day care; 66863

(c) Prevocational services; 66864

(d) Sheltered employment; 66865

(e) Educational experiences and training obtained through 66866
entities and activities that are not expressly intended for 66867
individuals with mental retardation and developmental 66868
disabilities, including trade schools, vocational or technical 66869
schools, adult education, job exploration and sampling, unpaid 66870
work experience in the community, volunteer activities, and 66871
spectator sports; 66872

(f) Community employment services and supported employment 66873
services. 66874

(B)(1) "Adult day habilitation services" means adult services 66875
that do the following: 66876

(a) Provide access to and participation in typical activities 66877
and functions of community life that are desired and chosen by the 66878

general population, including such activities and functions as 66879
opportunities to experience and participate in community 66880
exploration, companionship with friends and peers, leisure 66881
activities, hobbies, maintaining family contacts, community 66882
events, and activities where individuals without disabilities are 66883
involved; 66884

(b) Provide supports or a combination of training and 66885
supports that afford an individual a wide variety of opportunities 66886
to facilitate and build relationships and social supports in the 66887
community. 66888

(2) "Adult day habilitation services" includes all of the 66889
following: 66890

(a) Personal care services needed to ensure an individual's 66891
ability to experience and participate in vocational services, 66892
educational services, community activities, and any other adult 66893
day habilitation services; 66894

(b) Skilled services provided while receiving adult day 66895
habilitation services, including such skilled services as behavior 66896
management intervention, occupational therapy, speech and language 66897
therapy, physical therapy, and nursing services; 66898

(c) Training and education in self-determination designed to 66899
help the individual do one or more of the following: develop 66900
self-advocacy skills, exercise the individual's civil rights, 66901
acquire skills that enable the individual to exercise control and 66902
responsibility over the services received, and acquire skills that 66903
enable the individual to become more independent, integrated, or 66904
productive in the community; 66905

(d) Recreational and leisure activities identified in the 66906
individual's service plan as therapeutic in nature or assistive in 66907
developing or maintaining social supports; 66908

(e) Counseling and assistance provided to obtain housing, 66909
including such counseling as identifying options for either rental 66910
or purchase, identifying financial resources, assessing needs for 66911
environmental modifications, locating housing, and planning for 66912
ongoing management and maintenance of the housing selected; 66913

(f) Transportation necessary to access adult day habilitation 66914
services; 66915

(g) Habilitation management, as described in section 5126.14 66916
of the Revised Code. 66917

(3) "Adult day habilitation services" does not include 66918
activities that are components of the provision of residential 66919
services, family support services, or supported living services. 66920

(C) "Appointing authority" means the following: 66921

(1) In the case of a member of a county board of mental 66922
retardation and developmental disabilities appointed by, or to be 66923
appointed by, a board of county commissioners, the board of county 66924
commissioners; 66925

(2) In the case of a member of a county board appointed by, 66926
or to be appointed by, a senior probate judge, the senior probate 66927
judge. 66928

(D) "Community employment services" or "supported employment 66929
services" means job training and other services related to 66930
employment outside a sheltered workshop. "Community employment 66931
services" or "supported employment services" include all of the 66932
following: 66933

(1) Job training resulting in the attainment of competitive 66934
work, supported work in a typical work environment, or 66935
self-employment; 66936

(2) Supervised work experience through an employer paid to 66937
provide the supervised work experience; 66938

(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;	66939 66940
(4) Ongoing supervision by an employer paid to provide the supervision.	66941 66942
(E) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.	66943 66944 66945 66946
"Developmental disability" means a severe, chronic disability that is characterized by all of the following:	66947 66948
(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code;	66949 66950 66951 66952
(2) It is manifested before age twenty-two;	66953
(3) It is likely to continue indefinitely;	66954
(4) It results in one of the following:	66955
(a) In the case of a person under age three, at least one developmental delay or an established risk;	66956 66957
(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;	66958 66959
(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.	66960 66961 66962 66963 66964 66965 66966
(5) It causes the person to need a combination and sequence	66967

of special, interdisciplinary, or other type of care, treatment, 66968
or provision of services for an extended period of time that is 66969
individually planned and coordinated for the person. 66970

(F) "Early childhood services" means a planned program of 66971
habilitation designed to meet the needs of individuals with mental 66972
retardation or other developmental disabilities who have not 66973
attained compulsory school age. 66974

(G)(1) "Environmental modifications" means the physical 66975
adaptations to an individual's home, specified in the individual's 66976
service plan, that are necessary to ensure the individual's 66977
health, safety, and welfare or that enable the individual to 66978
function with greater independence in the home, and without which 66979
the individual would require institutionalization. 66980

(2) "Environmental modifications" includes such adaptations 66981
as installation of ramps and grab-bars, widening of doorways, 66982
modification of bathroom facilities, and installation of 66983
specialized electric and plumbing systems necessary to accommodate 66984
the individual's medical equipment and supplies. 66985

(3) "Environmental modifications" does not include physical 66986
adaptations or improvements to the home that are of general 66987
utility or not of direct medical or remedial benefit to the 66988
individual, including such adaptations or improvements as 66989
carpeting, roof repair, and central air conditioning. 66990

(H) "Family support services" means the services provided 66991
under a family support services program operated under section 66992
5126.11 of the Revised Code. 66993

(I) "Habilitation" means the process by which the staff of 66994
the facility or agency assists an individual with mental 66995
retardation or other developmental disability in acquiring and 66996
maintaining those life skills that enable the individual to cope 66997
more effectively with the demands of the individual's own person 66998

and environment, and in raising the level of the individual's 66999
personal, physical, mental, social, and vocational efficiency. 67000
Habilitation includes, but is not limited to, programs of formal, 67001
structured education and training. 67002

~~(J) "Habilitation center services" means services provided by 67003
a habilitation center certified by the department of mental 67004
retardation and developmental disabilities under section 5123.041 67005
of the Revised Code and covered by the medicaid program pursuant 67006
to rules adopted under section 5111.041 of the Revised Code. 67007~~

~~(K)~~ "Home and community-based services" means medicaid-funded 67008
home and community-based services specified in division (B)(1) of 67009
section 5111.87 of the Revised Code and provided under the 67010
medicaid waiver components the department of mental retardation 67011
and developmental disabilities administers pursuant to section 67012
5111.871 of the Revised Code. 67013

~~(L)~~(K) "Immediate family" means parents, brothers, sisters, 67014
spouses, sons, daughters, mothers-in-law, fathers-in-law, 67015
brothers-in-law, sisters-in-law, sons-in-law, and 67016
daughters-in-law. 67017

~~(M)~~(L) "Medicaid" has the same meaning as in section 5111.01 67018
of the Revised Code. 67019

~~(N)~~(M) "Medicaid case management services" means case 67020
management services provided to an individual with mental 67021
retardation or other developmental disability that the state 67022
medicaid plan requires. 67023

~~(O)~~(N) "Mental retardation" means a mental impairment 67024
manifested during the developmental period characterized by 67025
significantly subaverage general intellectual functioning existing 67026
concurrently with deficiencies in the effectiveness or degree with 67027
which an individual meets the standards of personal independence 67028
and social responsibility expected of the individual's age and 67029

cultural group. 67030

~~(P)~~(O) "Residential services" means services to individuals 67031
with mental retardation or other developmental disabilities to 67032
provide housing, food, clothing, habilitation, staff support, and 67033
related support services necessary for the health, safety, and 67034
welfare of the individuals and the advancement of their quality of 67035
life. "Residential services" includes program management, as 67036
described in section 5126.14 of the Revised Code. 67037

~~(Q)~~(P) "Resources" means available capital and other assets, 67038
including moneys received from the federal, state, and local 67039
governments, private grants, and donations; appropriately 67040
qualified personnel; and appropriate capital facilities and 67041
equipment. 67042

~~(R)~~(O) "Senior probate judge" means the current probate judge 67043
of a county who has served as probate judge of that county longer 67044
than any of the other current probate judges of that county. If a 67045
county has only one probate judge, "senior probate judge" means 67046
that probate judge. 67047

~~(S)~~(R) "Service and support administration" means the duties 67048
performed by a service and support administrator pursuant to 67049
section 5126.15 of the Revised Code. 67050

~~(T)~~(S)(1) "Specialized medical, adaptive, and assistive 67051
equipment, supplies, and supports" means equipment, supplies, and 67052
supports that enable an individual to increase the ability to 67053
perform activities of daily living or to perceive, control, or 67054
communicate within the environment. 67055

(2) "Specialized medical, adaptive, and assistive equipment, 67056
supplies, and supports" includes the following: 67057

(a) Eating utensils, adaptive feeding dishes, plate guards, 67058
mylatex straps, hand splints, reaches, feeder seats, adjustable 67059
pointer sticks, interpreter services, telecommunication devices 67060

for the deaf, computerized communications boards, other 67061
communication devices, support animals, veterinary care for 67062
support animals, adaptive beds, supine boards, prone boards, 67063
wedges, sand bags, sidelayers, bolsters, adaptive electrical 67064
switches, hand-held shower heads, air conditioners, humidifiers, 67065
emergency response systems, folding shopping carts, vehicle lifts, 67066
vehicle hand controls, other adaptations of vehicles for 67067
accessibility, and repair of the equipment received. 67068

(b) Nondisposable items not covered by medicaid that are 67069
intended to assist an individual in activities of daily living or 67070
instrumental activities of daily living. 67071

~~(U)~~(T) "Supportive home services" means a range of services 67072
to families of individuals with mental retardation or other 67073
developmental disabilities to develop and maintain increased 67074
acceptance and understanding of such persons, increased ability of 67075
family members to teach the person, better coordination between 67076
school and home, skills in performing specific therapeutic and 67077
management techniques, and ability to cope with specific 67078
situations. 67079

~~(V)~~(U)(1) "Supported living" means services provided for as 67080
long as twenty-four hours a day to an individual with mental 67081
retardation or other developmental disability through any public 67082
or private resources, including moneys from the individual, that 67083
enhance the individual's reputation in community life and advance 67084
the individual's quality of life by doing the following: 67085

(a) Providing the support necessary to enable an individual 67086
to live in a residence of the individual's choice, with any number 67087
of individuals who are not disabled, or with not more than three 67088
individuals with mental retardation and developmental disabilities 67089
unless the individuals are related by blood or marriage; 67090

(b) Encouraging the individual's participation in the 67091

community;	67092
(c) Promoting the individual's rights and autonomy;	67093
(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.	67094 67095 67096
(2) "Supported living" includes the provision of all of the following:	67097 67098
(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;	67099 67100 67101 67102
(b) A combination of life-long or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;	67103 67104 67105 67106 67107
(c) Personal care services and homemaker services;	67108
(d) Household maintenance that does not include modifications to the physical structure of the residence;	67109 67110
(e) Respite care services;	67111
(f) Program management, as described in section 5126.14 of the Revised Code.	67112 67113
Sec. 5126.035. (A) As used in this section:	67114
(1) "Provider" means a person or government entity that provides services to an individual with mental retardation or other developmental disability pursuant to a service contract.	67115 67116 67117
(2) "Service contract" means a contract between a county board of mental retardation and developmental disabilities and a	67118 67119

provider under which the provider is to provide services to an individual with mental retardation or other developmental disability. 67120
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(B) Each service contract that a county board of mental retardation and developmental disabilities enters into with a provider shall do ~~all~~ both of the following: 67123
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~~(1) Comply with rules adopted under division (E) of this section;~~ 67126
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~~(2)~~ If the provider is to provide home and community-based services, or medicaid case management services, ~~or habilitation center services,~~ comply with all applicable statewide medicaid requirements; 67128
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~~(3)~~(2) Include a general operating agreement component and an individual service needs addendum. 67132
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(C) The general operating agreement component shall include all of the following: 67134
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(1) The roles and responsibilities of the county board regarding services for individuals with mental retardation or other developmental disability who reside in the county the county board serves; 67136
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(2) The roles and responsibilities of the provider as specified in the individual service needs addendum; 67140
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(3) Procedures for the county board to monitor the provider's services; 67142
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(4) Procedures for the county board to evaluate the quality of care and cost effectiveness of the provider's services; 67144
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(5) Procedures for payment of eligible claims; 67146

(6) If the provider is to provide home and community-based services, or medicaid case management services, ~~or habilitation~~ 67147
67148

center services , both of the following:	67149
(a) Procedures for reimbursement that conform to the statewide reimbursement process and the county board's plan submitted under section 5126.054 of the Revised Code;	67150 67151 67152
(b) Procedures that ensure that the county board pays the nonfederal share of the medicaid expenditures that the county board is required by division (A) of section 5126.057 of the Revised Code to pay.	67153 67154 67155 67156
(7) Procedures for the county board to perform service utilization reviews and the implementation of required corrective actions;	67157 67158 67159
(8) Procedures for the provider to submit claims for payment for a service no later than three hundred thirty days after the date the service is provided;	67160 67161 67162
(9) Procedures for rejecting claims for payment that are submitted after the time required by division (B)(9) <u>(C)(8)</u> of this section;	67163 67164 67165
(10) Procedures for developing, modifying, and executing initial and subsequent service plans. The procedures shall provide for the provider's participation.	67166 67167 67168
(11) Procedures for affording individuals due process protections;	67169 67170
(12) General staffing, training, and certification requirements that are consistent with state requirements and compensation arrangements that are necessary to attract, train, and retain competent personnel to deliver the services pursuant to the individual service needs addendum;	67171 67172 67173 67174 67175
(13) Methods to be used to document services provided and procedures for submitting reports the county board requires;	67176 67177
(14) Methods for authorizing and documenting within	67178

seventy-two hours changes to the individual service needs	67179
addendum. The methods shall allow for changes to be initially	67180
authorized verbally and subsequently in writing.	67181
(15) Procedures for modifying the individual service needs	67182
addendum in accordance with changes to the recipient's	67183
individualized service plan;	67184
(16) Procedures for terminating the individual service needs	67185
addendum within thirty days of a request made by the recipient;	67186
(17) A requirement that all parties to the contract accept	67187
the contract's terms and conditions;	67188
(18) A designated contact person and the method of contacting	67189
the designated person to respond to medical or behavioral problems	67190
and allegations of major unusual incidents or unusual incidents;	67191
(19) Procedures for ensuring the health and welfare of the	67192
recipient;	67193
(20) Procedures for ensuring fiscal accountability and the	67194
collection and reporting of programmatic data;	67195
(21) Procedures for implementing the mediation and	67196
arbitration process under section 5126.036 of the Revised Code;	67197
(22) Procedures for amending or terminating the contract,	67198
including as necessary to make the general operating agreement	67199
component consistent with any changes made to the individual	67200
service needs addendum;	67201
(23) Anything else allowable under federal and state law that	67202
the county board and provider agree to.	67203
(D) The individual service needs addendum shall be consistent	67204
with the general operating agreement component and include all of	67205
the following:	67206
(1) The name of the individual with mental retardation or	67207

other developmental disability who is to receive the services from 67208
the provider and any information about the recipient that the 67209
provider needs to be able to provide the services; 67210

(2) A clear and complete description of the services that the 67211
recipient is to receive as determined using statewide assessment 67212
tools; 67213

(3) A copy of the recipient's assessment and individualized 67214
service plan; 67215

(4) A clear and complete description of the provider's 67216
responsibilities to the recipient and county board in providing 67217
appropriate services in a coordinated manner with other providers 67218
and in a manner that contributes to and ensures the recipient's 67219
health, safety, and welfare. 67220

(E) ~~The director of mental retardation and developmental~~ 67221
~~disabilities shall adopt rules in accordance with Chapter 119. of~~ 67222
~~the Revised Code governing service contracts.~~ A service contract 67223
does not negate the requirement that a provider of home and 67224
community-based services, or medicaid case management services, ~~or~~ 67225
~~habilitation center services~~ have a medicaid provider agreement 67226
with the department of job and family services. 67227

Sec. 5126.042. (A) As used in this section, "emergency" means 67228
any situation that creates for an individual with mental 67229
retardation or developmental disabilities a risk of substantial 67230
self-harm or substantial harm to others if action is not taken 67231
within thirty days. An "emergency" may include one or more of the 67232
following situations: 67233

(1) Loss of present residence for any reason, including legal 67234
action; 67235

(2) Loss of present caretaker for any reason, including 67236
serious illness of the caretaker, change in the caretaker's 67237

status, or inability of the caretaker to perform effectively for the individual; 67238
67239

(3) Abuse, neglect, or exploitation of the individual; 67240

(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death; 67241
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(5) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker. 67243
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(B) If a county board of mental retardation and developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request programs and services and may be offered the programs and services, it shall establish waiting lists for services. The board may establish priorities for making placements on its waiting lists according to an individual's emergency status and shall establish priorities in accordance with divisions (D) and (E) of this section. 67246
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The individuals who may be placed on a waiting list include individuals with a need for services on an emergency basis and individuals who have requested services for which resources are not available. 67255
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Except for an individual who is to receive priority for services pursuant to division (D)(3) of this section, an individual who currently receives a service but would like to change to another service shall not be placed on a waiting list but shall be placed on a service substitution list. The board shall work with the individual, service providers, and all appropriate entities to facilitate the change in service as expeditiously as possible. The board may establish priorities for making placements on its service substitution lists according to an individual's emergency status. 67259
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In addition to maintaining waiting lists and service substitution lists, a board shall maintain a long-term service planning registry for individuals who wish to record their intention to request in the future a service they are not currently receiving. The purpose of the registry is to enable the board to document requests and to plan appropriately. The board may not place an individual on the registry who meets the conditions for receipt of services on an emergency basis.

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

(1) Early childhood services;

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

(3) Adult services;

(4) Service and support administration;

(5) Residential services and supported living;

(6) Transportation services;

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

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

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

(1) For the purpose of obtaining additional federal medicaid

funds for home and community-based services, and medicaid case management services, ~~and habilitation center services~~, do both of the following: 67298
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(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services: 67301
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(i) Is twenty-two years of age or older; 67307

(ii) Receives supported living or family support services. 67308

(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services: 67309
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(i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services; 67314
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(ii) Receives adult services from the county board. 67317

(2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community-based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section: 67318
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(a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older; 67324
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(b) Is less than twenty-two years of age and has at least one 67328
of the following service needs that are unusual in scope or 67329
intensity: 67330

(i) Severe behavior problems for which a behavior support 67331
plan is needed; 67332

(ii) An emotional disorder for which anti-psychotic 67333
medication is needed; 67334

(iii) A medical condition that leaves the individual 67335
dependent on life-support medical technology; 67336

(iv) A condition affecting multiple body systems for which a 67337
combination of specialized medical, psychological, educational, or 67338
habilitation services are needed; 67339

(v) A condition the county board determines to be comparable 67340
in severity to any condition described in division (D)(2)(b)(i) to 67341
(iv) of this section and places the individual at significant risk 67342
of institutionalization. 67343

(c) Is twenty-two years of age or older, does not receive 67344
residential services or supported living, and is determined by the 67345
county board to have intensive needs for home and community-based 67346
services on an in-home or out-of-home basis. 67347

(3) In fiscal years 2002 and 2003, give an individual who is 67348
eligible for home and community-based services, resides in an 67349
intermediate care facility for the mentally retarded or nursing 67350
facility, chooses to move to another setting with the help of home 67351
and community-based services, and has been determined by the 67352
department of mental retardation and developmental disabilities to 67353
be capable of residing in the other setting, priority over any 67354
other individual on a waiting list established under division (C) 67355
of this section for home and community-based services who does not 67356
meet these criteria. The department of mental retardation and 67357

developmental disabilities shall identify the individuals to
receive priority under division (D)(3) of this section, assess the
needs of the individuals, and notify the county boards that are to
provide the individuals priority under division (D)(3) of this
section of the individuals identified by the department and the
individuals' assessed needs.

(E) Except as provided in division (G) of this section and
for a number of years and beginning on a date specified in rules
adopted under division (K) of this section, a county board shall
give an individual who is eligible for home and community-based
services, resides in a nursing facility, and chooses to move to
another setting with the help of home and community-based
services, priority over any other individual on a waiting list
established under division (C) of this section for home and
community-based services who does not meet these criteria.

(F) If two or more individuals on a waiting list established
under division (C) of this section for home and community-based
services have priority for the services pursuant to division
(D)(1) or (2) or (E) of this section, a county board may use,
until December 31, ~~2005~~ 2007, criteria specified in rules adopted
under division (K)(2) of this section in determining the order in
which the individuals with priority will be offered the services.
Otherwise, the county board shall offer the home and
community-based services to such individuals in the order they are
placed on the waiting list.

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

(2) No more than four hundred individuals in the state may
receive priority for services during the ~~2004~~ 2006 and ~~2005~~ 2007

biennium pursuant to division (D)(2)(b) of this section. 67389

(3) No more than a total of seventy-five individuals in the 67390
state may receive priority for services during state fiscal years 67391
2002 and 2003 pursuant to division (D)(3) of this section. 67392

(4) No more than forty individuals in the state may receive 67393
priority for services pursuant to division (E) of this section for 67394
each year that priority category is in effect as specified in 67395
rules adopted under division (K) of this section. 67396

(H) Prior to establishing any waiting list under this 67397
section, a county board shall develop and implement a policy for 67398
waiting lists that complies with this section and rules adopted 67399
under division (K) of this section. 67400

Prior to placing an individual on a waiting list, the county 67401
board shall assess the service needs of the individual in 67402
accordance with all applicable state and federal laws. The county 67403
board shall place the individual on the appropriate waiting list 67404
and may place the individual on more than one waiting list. The 67405
county board shall notify the individual of the individual's 67406
placement and position on each waiting list on which the 67407
individual is placed. 67408

At least annually, the county board shall reassess the 67409
service needs of each individual on a waiting list. If it 67410
determines that an individual no longer needs a program or 67411
service, the county board shall remove the individual from the 67412
waiting list. If it determines that an individual needs a program 67413
or service other than the one for which the individual is on the 67414
waiting list, the county board shall provide the program or 67415
service to the individual or place the individual on a waiting 67416
list for the program or service in accordance with the board's 67417
policy for waiting lists. 67418

When a program or service for which there is a waiting list 67419

becomes available, the county board shall reassess the service 67420
needs of the individual next scheduled on the waiting list to 67421
receive that program or service. If the reassessment demonstrates 67422
that the individual continues to need the program or service, the 67423
board shall offer the program or service to the individual. If it 67424
determines that an individual no longer needs a program or 67425
service, the county board shall remove the individual from the 67426
waiting list. If it determines that an individual needs a program 67427
or service other than the one for which the individual is on the 67428
waiting list, the county board shall provide the program or 67429
service to the individual or place the individual on a waiting 67430
list for the program or service in accordance with the board's 67431
policy for waiting lists. The county board shall notify the 67432
individual of the individual's placement and position on the 67433
waiting list on which the individual is placed. 67434

(I) A child subject to a determination made pursuant to 67435
section 121.38 of the Revised Code who requires the home and 67436
community-based services provided through a medicaid component 67437
that the department of mental retardation and developmental 67438
disabilities administers under section 5111.871 of the Revised 67439
Code shall receive services through that medicaid component. For 67440
all other services, a child subject to a determination made 67441
pursuant to section 121.38 of the Revised Code shall be treated as 67442
an emergency by the county boards and shall not be subject to a 67443
waiting list. 67444

(J) Not later than the fifteenth day of March of each 67445
even-numbered year, each county board shall prepare and submit to 67446
the director of mental retardation and developmental disabilities 67447
its recommendations for the funding of services for individuals 67448
with mental retardation and developmental disabilities and its 67449
proposals for reducing the waiting lists for services. 67450

(K)(1) The department of mental retardation and developmental 67451

disabilities shall adopt rules in accordance with Chapter 119. of 67452
the Revised Code governing waiting lists established under this 67453
section. The rules shall include procedures to be followed to 67454
ensure that the due process rights of individuals placed on 67455
waiting lists are not violated. 67456

(2) As part of the rules adopted under this division, the 67457
department shall adopt rules establishing criteria a county board 67458
may use under division (F) of this section in determining the 67459
order in which individuals with priority for home and 67460
community-based services will be offered the services. The rules 67461
shall also specify conditions under which a county board, when 67462
there is no individual with priority for home and community-based 67463
services pursuant to division (D)(1) or (2) or (E) of this section 67464
available and appropriate for the services, may offer the services 67465
to an individual on a waiting list for the services but not given 67466
such priority for the services. The rules adopted under division 67467
(K)(2) of this section shall cease to have effect December 31, 67468
~~2005~~ 2007. 67469

(3) As part of the rules adopted under this division, the 67470
department shall adopt rules specifying both of the following for 67471
the priority category established under division (E) of this 67472
section: 67473

(a) The number of years, which shall not exceed five, that 67474
the priority category will be in effect; 67475

(b) The date that the priority category is to go into effect. 67476

(L) The following shall take precedence over the applicable 67477
provisions of this section: 67478

(1) Medicaid rules and regulations; 67479

(2) Any specific requirements that may be contained within a 67480
medicaid state plan amendment or waiver program that a county 67481

board has authority to administer or with respect to which it has 67482
authority to provide services, programs, or supports. 67483

Sec. 5126.054. (A) Each county board of mental retardation 67484
and developmental disabilities shall, by resolution, develop a 67485
three-calendar year plan that includes the following four 67486
components: 67487

(1) An assessment component that includes all of the 67488
following: 67489

(a) The number of individuals with mental retardation or 67490
other developmental disability residing in the county who need the 67491
level of care provided by an intermediate care facility for the 67492
mentally retarded, may seek home and community-based services, are 67493
given priority for the services pursuant to division (D) of 67494
section 5126.042 of the Revised Code; the service needs of those 67495
individuals; and the projected annualized cost for services; 67496

(b) The source of funds available to the county board to pay 67497
the nonfederal share of medicaid expenditures that the county 67498
board is required by division (A) of section 5126.057 of the 67499
Revised Code to pay; 67500

(c) Any other applicable information or conditions that the 67501
department of mental retardation and developmental disabilities 67502
requires as a condition of approving the component under section 67503
5123.046 of the Revised Code. 67504

(2) A component that provides for the recruitment, training, 67505
and retention of existing and new direct care staff necessary to 67506
implement services included in individualized service plans, 67507
including behavior management services and health management 67508
services such as delegated nursing and other habilitation 67509
services, and protect the health and welfare of individuals 67510
receiving services included in the individual's individualized 67511

service plan by complying with safeguards for unusual and major 67512
unusual incidents, day-to-day program management, and other 67513
requirements the department shall identify. A county board shall 67514
develop this component in collaboration with providers of 67515
medicaid-funded services with which the county board contracts. A 67516
county board shall include all of the following in the component: 67517

(a) The source and amount of funds available for the 67518
component; 67519

(b) A plan and timeline for implementing the component with 67520
the medicaid providers under contract with the county board; 67521

(c) The mechanisms the county board shall use to ensure the 67522
financial and program accountability of the medicaid provider's 67523
implementation of the component. 67524

(3) A preliminary implementation component that specifies the 67525
number of individuals to be provided, during the first year that 67526
the plan is in effect, home and community-based services pursuant 67527
to the priority given to them under divisions (D)(1) and (2) of 67528
section 5126.042 of the Revised Code and the types of home and 67529
community-based services the individuals are to receive; 67530

(4) A component that provides for the implementation of 67531
~~habilitation center services,~~ medicaid case management services, 67532
and home and community-based services for individuals who begin to 67533
receive the services on or after the date the plan is approved 67534
under section 5123.046 of the Revised Code. A county board shall 67535
include all of the following in the component: 67536

(a) If the department of mental retardation and developmental 67537
disabilities or department of job and family services requires, an 67538
agreement to pay the nonfederal share of medicaid expenditures 67539
that the county board is required by division (A) of section 67540
5126.057 of the Revised Code to pay; 67541

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

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

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

(i) To provide the types of home and community-based services specified in the preliminary implementation component required by division (A)(3) of this section to at least the number of individuals specified in that component;

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

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

(iv) To employ or contract with a medicaid services manager who is either a new employee who has earned at least a bachelor's degree or a current employee who has the equivalent experience of a bachelor's degree. If the county board will employ a new

employee, the county board shall include in the component a 67573
timeline for employing the employee. Two or three county boards 67574
that have a combined total enrollment in county board services not 67575
exceeding one thousand individuals as determined pursuant to 67576
certifications made under division (B) of section 5126.12 of the 67577
Revised Code may satisfy this requirement by sharing the services 67578
of a medicaid services manager or using the services of a medicaid 67579
services manager employed by or under contract with a regional 67580
council that the county boards establish under section 5126.13 of 67581
the Revised Code. 67582

(e) An agreement to comply with the method, developed by 67583
rules adopted under section 5123.0413 of the Revised Code, of 67584
paying for extraordinary costs, including extraordinary costs for 67585
services to individuals with mental retardation or other 67586
developmental disability, and ensuring the availability of 67587
adequate funds in the event a county property tax levy for 67588
services for individuals with mental retardation or other 67589
developmental disability fails; 67590

(f) Programmatic and financial accountability measures and 67591
projected outcomes expected from the implementation of the plan; 67592

(g) Any other applicable information or conditions that the 67593
department requires as a condition of approving the component 67594
under section 5123.046 of the Revised Code. 67595

(B) For the purpose of obtaining the department's approval 67596
under section 5123.046 of the Revised Code of the plan the county 67597
board develops under division (A) of this section, a county board 67598
shall do all of the following: 67599

(1) Submit the components required by divisions (A)(1) and 67600
(2) of this section to the department not later than August 1, 67601
2001; 67602

(2) Submit the component required by division (A)(3) of this 67603

section to the department not later than January 31, 2002; 67604

(3) Submit the component required by division (A)(4) of this 67605
section to the department not later than July 1, 2002. 67606

(C) A county board whose plan developed under division (A) of 67607
this section is approved by the department under section 5123.046 67608
of the Revised Code shall update and renew the plan in accordance 67609
with a schedule the department shall develop. 67610

Sec. 5126.055. (A) Except as provided in section 5126.056 of 67611
the Revised Code, a county board of mental retardation and 67612
developmental disabilities has medicaid local administrative 67613
authority to, and shall, do all of the following for an individual 67614
with mental retardation or other developmental disability who 67615
resides in the county that the county board serves and seeks or 67616
receives home and community-based services: 67617

(1) Perform assessments and evaluations of the individual. As 67618
part of the assessment and evaluation process, the county board 67619
shall do all of the following: 67620

(a) Make a recommendation to the department of mental 67621
retardation and developmental disabilities on whether the 67622
department should approve or deny the individual's application for 67623
the services, including on the basis of whether the individual 67624
needs the level of care an intermediate care facility for the 67625
mentally retarded provides; 67626

(b) If the individual's application is denied because of the 67627
county board's recommendation and the individual requests a 67628
hearing under section 5101.35 of the Revised Code, present, with 67629
the department of mental retardation and developmental 67630
disabilities or department of job and family services, whichever 67631
denies the application, the reasons for the recommendation and 67632
denial at the hearing; 67633

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

(2) If the individual has been identified by the department of mental retardation and developmental disabilities as an individual to receive priority for home and community-based services pursuant to division (D)(3) of section 5126.042 of the Revised Code, assist the department in expediting the transfer of the individual from an intermediate care facility for the mentally retarded or nursing facility to the home and community-based services;

(3) In accordance with the rules adopted under section 5126.046 of the Revised Code, perform the county board's duties under that section regarding assisting the individual's right to choose a qualified and willing provider of the services and, at a hearing under section 5101.35 of the Revised Code, present evidence of the process for appropriate assistance in choosing providers;

(4) Unless the county board provides the services under division (A)(5) of this section, contract with the person or government entity the individual chooses in accordance with section 5126.046 of the Revised Code to provide the services if the person or government entity is qualified and agrees to provide the services. The contract shall contain all the provisions

required by section 5126.035 of the Revised Code and require the
provider to agree to furnish, in accordance with the provider's
medicaid provider agreement and for the authorized reimbursement
rate, the services the individual requires.

(5) If the county board is certified under section ~~5123.045~~
5123.16 of the Revised Code to provide the services and agrees to
provide the services to the individual and the individual chooses
the county board to provide the services, furnish, in accordance
with the county board's medicaid provider agreement and for the
authorized reimbursement rate, the services the individual
requires;

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

(7) Develop, with the individual and the provider of the
individual's services, an effective individualized service plan
that includes coordination of services, recommend that the
departments of mental retardation and developmental disabilities
and job and family services approve the plan, and implement the
plan unless either department disapproves it;

(8) Have an investigative agent conduct investigations under
section 5126.313 of the Revised Code that concern the individual;

(9) Have a service and support administrator perform the
duties under division (B)(9) of section 5126.15 of the Revised
Code that concern the individual.

~~(B) Except as provided in section 5126.056 of the Revised
Code, a county board has medicaid local administrative authority
to, and shall, do all of the following for an individual with~~

~~mental retardation or other developmental disability who resides 67697
in the county that the county board serves and seeks or receives 67698
medicaid case management services or habilitation center services, 67699
other than habilitation center services for which a school 67700
district is required by division (E) of section 5111.041 of the 67701
Revised Code to pay the nonfederal share: 67702~~

~~(1) Perform assessments and evaluations of the individual for 67703
the purpose of recommending to the departments of mental 67704
retardation and developmental disabilities and job and family 67705
services the services that should be included in the individual's 67706
individualized service plan: 67707~~

~~(2) If the department of mental retardation and developmental 67708
disabilities or department of job and family services approves, 67709
reduces, denies, or terminates a service included in the 67710
individual's individualized service plan under section 5111.041 or 67711
5111.042 of the Revised Code because of the county board's 67712
recommendation under division (B)(1) of this section, present, 67713
with the department that made the approval, reduction, denial, or 67714
termination, the reasons for the recommendation and approval, 67715
reduction, denial, or termination at a hearing under section 67716
5101.35 of the Revised Code and inform the individual that the 67717
individual may file a complaint with the county board under 67718
section 5126.06 of the Revised Code at the same time the 67719
individual pursues an appeal under section 5101.35 of the Revised 67720
Code: 67721~~

~~(3) In accordance with rules the departments of mental 67722
retardation and developmental disabilities and job and family 67723
services shall adopt in accordance with Chapter 119. of the 67724
Revised Code governing the process for individuals to choose 67725
providers of medicaid case management services and habilitation 67726
center services, assist the individual in choosing the provider of 67727
the services. The rules shall provide for both of the following: 67728~~

~~(a) The county board providing the individual up to date information about qualified providers that the department of mental retardation and developmental disabilities shall make available to the county board;~~ 67729
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~~(b) If the individual chooses a provider who is qualified and willing to provide the services but is denied that provider, the individual receiving timely notice that the individual may request a hearing under section 5101.35 of the Revised Code and, at the hearing, the county board presenting evidence of the process for appropriate assistance in choosing providers.~~ 67733
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~~(4) Unless the county board provides the services under division (B)(5) of this section, contract with the person or government entity that the individual chooses in accordance with the rules adopted under division (B)(3) of this section to provide the services if the person or government entity is qualified and agrees to provide the services. The contract shall contain all the provisions required by section 5126.035 of the Revised Code and require the provider to agree to furnish, in accordance with the provider's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires.~~ 67739
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~~(5) If the county board is certified under section 5123.041 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires;~~ 67749
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~~(6) Monitor the services provided to the individual. The monitoring shall include quality assurance activities. If the county board provides the services, the department of mental retardation and developmental disabilities shall also monitor the~~ 67756
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~~services.~~ 67760

~~(7) Develop with the individual and the provider of the individual's services, and with the approval of the departments of mental retardation and developmental disabilities and job and family services, implement an effective plan for coordinating the services in accordance with the individual's approved individualized service plan;~~ 67761
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~~(8) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual;~~ 67767
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~~(9) Have a service and support administrator perform the duties under division (B)(9) of section 5126.15 of the Revised Code that concern the individual.~~ 67769
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~~(C)~~ A county board shall perform its medicaid local administrative authority under this section in accordance with all of the following: 67772
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(1) The county board's plan that the department of mental retardation and developmental disabilities approves under section 5123.046 of the Revised Code; 67775
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(2) All applicable federal and state laws; 67778

(3) All applicable policies of the departments of mental retardation and developmental disabilities and job and family services and the United States department of health and human services; 67779
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(4) The department of job and family services' supervision under its authority under section 5111.01 of the Revised Code to act as the single state medicaid agency; 67783
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(5) The department of mental retardation and developmental disabilities' oversight. 67786
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~~(D)~~(C) The departments of mental retardation and developmental disabilities and job and family services shall 67788
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communicate with and provide training to county boards regarding 67790
medicaid local administrative authority granted by this section. 67791
The communication and training shall include issues regarding 67792
audit protocols and other standards established by the United 67793
States department of health and human services that the 67794
departments determine appropriate for communication and training. 67795
County boards shall participate in the training. The departments 67796
shall assess the county board's compliance against uniform 67797
standards that the departments shall establish. 67798

~~(E)~~(D) A county board may not delegate its medicaid local 67799
administrative authority granted under this section but may 67800
contract with a person or government entity, including a council 67801
of governments, for assistance with its medicaid local 67802
administrative authority. A county board that enters into such a 67803
contract shall notify the director of mental retardation and 67804
developmental disabilities. The notice shall include the tasks and 67805
responsibilities that the contract gives to the person or 67806
government entity. The person or government entity shall comply in 67807
full with all requirements to which the county board is subject 67808
regarding the person or government entity's tasks and 67809
responsibilities under the contract. The county board remains 67810
ultimately responsible for the tasks and responsibilities. 67811

~~(F)~~(E) A county board that has medicaid local administrative 67812
authority under this section shall, through the departments of 67813
mental retardation and developmental disabilities and job and 67814
family services, reply to, and cooperate in arranging compliance 67815
with, a program or fiscal audit or program violation exception 67816
that a state or federal audit or review discovers. The department 67817
of job and family services shall timely notify the department of 67818
mental retardation and developmental disabilities and the county 67819
board of any adverse findings. After receiving the notice, the 67820
county board, in conjunction with the department of mental 67821

retardation and developmental disabilities, shall cooperate fully 67822
with the department of job and family services and timely prepare 67823
and send to the department a written plan of correction or 67824
response to the adverse findings. The county board is liable for 67825
any adverse findings that result from an action it takes or fails 67826
to take in its implementation of medicaid local administrative 67827
authority. 67828

~~(G)~~(F) If the department of mental retardation and 67829
developmental disabilities or department of job and family 67830
services determines that a county board's implementation of its 67831
medicaid local administrative authority under this section is 67832
deficient, the department that makes the determination shall 67833
require that county board do the following: 67834

(1) If the deficiency affects the health, safety, or welfare 67835
of an individual with mental retardation or other developmental 67836
disability, correct the deficiency within twenty-four hours; 67837

(2) If the deficiency does not affect the health, safety, or 67838
welfare of an individual with mental retardation or other 67839
developmental disability, receive technical assistance from the 67840
department or submit a plan of correction to the department that 67841
is acceptable to the department within sixty days and correct the 67842
deficiency within the time required by the plan of correction. 67843

Sec. 5126.056. (A) The department of mental retardation and 67844
developmental disabilities shall take action under division (B) of 67845
this section against a county board of mental retardation and 67846
developmental disabilities if any of the following are the case: 67847

(1) The county board fails to submit to the department all 67848
the components of its three-year plan required by section 5126.054 67849
of the Revised Code within the time required by division (B) of 67850
that section. 67851

(2) The department disapproves the county board's three-year plan under section 5123.046 of the Revised Code. 67852
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(3) The county board fails, as required by division (C) of section 5126.054 of the Revised Code, to update and renew its three-year plan in accordance with a schedule the department develops under that section. 67854
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(4) The county board fails to implement its initial or renewed three-year plan approved by the department. 67858
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(5) The county board fails to correct a deficiency within the time required by division ~~(G)~~(F) of section 5126.055 of the Revised Code to the satisfaction of the department. 67860
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(6) The county board fails to submit an acceptable plan of correction to the department within the time required by division ~~(G)~~(F)(2) of section 5126.055 of the Revised Code. 67863
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(B) If required by division (A) of this section to take action against a county board, the department shall issue an order terminating the county board's medicaid local administrative authority over all or part of home and community-based services, medicaid case management services, ~~habilitation center services,~~ all or part of two of those services, or all or part of all three both of those services. The department shall provide a copy of the order to the board of county commissioners, senior probate judge, county auditor, and president and superintendent of the county board. The department shall specify in the order the medicaid local administrative authority that the department is terminating, the reason for the termination, and the county board's option and responsibilities under this division. 67866
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A county board whose medicaid local administrative authority is terminated may, not later than thirty days after the department issues the termination order, recommend to the department that another county board that has not had any of its medicaid local 67879
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administrative authority terminated or another entity the 67883
department approves administer the services for which the county 67884
board's medicaid local administrative authority is terminated. The 67885
department may contract with the other county board or entity to 67886
administer the services. If the department enters into such a 67887
contract, the county board shall adopt a resolution giving the 67888
other county board or entity full medicaid local administrative 67889
authority over the services that the other county board or entity 67890
is to administer. The other county board or entity shall be known 67891
as the contracting authority. 67892

If the department rejects the county board's recommendation 67893
regarding a contracting authority, the county board may appeal the 67894
rejection under section 5123.043 of the Revised Code. 67895

If the county board does not submit a recommendation to the 67896
department regarding a contracting authority within the required 67897
time or the department rejects the county board's recommendation 67898
and the rejection is upheld pursuant to an appeal, if any, under 67899
section 5123.043 of the Revised Code, the department shall appoint 67900
an administrative receiver to administer the services for which 67901
the county board's medicaid local administrative authority is 67902
terminated. To the extent necessary for the department to appoint 67903
an administrative receiver, the department may utilize employees 67904
of the department, management personnel from another county board, 67905
or other individuals who are not employed by or affiliated with in 67906
any manner a person that provides home and community-based 67907
services, or medicaid case management services, ~~or habilitation~~ 67908
~~center services~~ pursuant to a contract with any county board. The 67909
administrative receiver shall assume full administrative 67910
responsibility for the county board's services for which the 67911
county board's medicaid local administrative authority is 67912
terminated. 67913

The contracting authority or administrative receiver shall 67914

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

The county board shall transfer control of state and federal
funds it is otherwise eligible to receive for the services for
which the county board's medicaid local administrative authority
is terminated and funds the county board may use under division
(B) of section 5126.057 of the Revised Code to pay the nonfederal
share of the services that the county board is required by
division (A) of that section to pay. The county board shall
transfer control of the funds to the contracting authority or
administrative receiver administering the services. The amount the
county board shall transfer shall be the amount necessary for the
contracting authority or administrative receiver to fulfill its
duties in administering the services, including its duties to pay
its personnel for time worked, travel, and related matters. If the
county board fails to make the transfer, the department may
withhold the state and federal funds from the county board and
bring a mandamus action against the county board in the court of
common pleas of the county served by the county board or in the
Franklin county court of common pleas. The mandamus action may not
require that the county board transfer any funds other than the
funds the county board is required by division (B) of this section
to transfer.

The contracting authority or administrative receiver has the
right to authorize the payment of bills in the same manner that
the county board may authorize payment of bills under this chapter
and section 319.16 of the Revised Code.

Sec. 5126.057. (A) A county board of mental retardation and

developmental disabilities that has medicaid local administrative 67946
authority under division (A) of section 5126.055 of the Revised 67947
Code for home and community-based services shall pay the 67948
nonfederal share of medicaid expenditures for such services 67949
provided to an individual with mental retardation or other 67950
developmental disability who the county board determines under 67951
section 5126.041 of the Revised Code is eligible for county board 67952
services unless division ~~(C)~~(B)(2) or (3) of section 5123.047 of 67953
the Revised Code requires the department of mental retardation and 67954
developmental disabilities to pay the nonfederal share. 67955

A county board that ~~has medicaid local administrative~~ 67956
~~authority under division (B) of section 5126.055 of the Revised~~ 67957
~~Code for~~ provides medicaid case management services shall pay the 67958
nonfederal share of medicaid expenditures for such services 67959
provided to an individual with mental retardation or other 67960
developmental disability who the county board determines under 67961
section 5126.041 of the Revised Code is eligible for county board 67962
services ~~unless division (B)(2) of section 5123.047 of the Revised~~ 67963
~~Code requires the department of mental retardation and~~ 67964
~~developmental disabilities to pay the nonfederal share.~~ 67965

~~A county board shall pay the nonfederal share of medicaid~~ 67966
~~expenditures for habilitation center services when required to do~~ 67967
~~so by division (D) of section 5111.041 of the Revised Code.~~ 67968

(B) A county board may use the following funds to pay the 67969
nonfederal share of the services that the county board is required 67970
by division (A) of this section to pay: 67971

(1) To the extent consistent with the levy that generated the 67972
taxes, the following taxes: 67973

(a) Taxes levied pursuant to division (L) of section 5705.19 67974
of the Revised Code and section 5705.222 of the Revised Code; 67975

(b) Taxes levied under section 5705.191 of the Revised Code 67976
that the board of county commissioners allocates to the county 67977
board to pay the nonfederal share of the services. 67978

(2) Funds that the department of mental retardation and 67979
developmental disabilities distributes to the county board under 67980
sections 5126.11, 5126.12, 5126.15, 5126.18, and 5126.44 of the 67981
Revised Code; 67982

~~(3) Funds that the department allocates to the county board 67983
for habilitation center services provided under section 5111.041 67984
of the Revised Code; 67985~~

~~(4) Earned federal revenue funds the county board receives 67986
for medicaid services the county board provides pursuant to the 67987
county board's valid medicaid provider agreement. 67988~~

(C) If by December 31, 2001, the United States secretary of 67989
health and human services approves at least five hundred more 67990
slots for home and community-based services for calendar year 2002 67991
than were available for calendar year 2001, each county board 67992
shall provide, by the last day of calendar year 2001, assurances 67993
to the department of mental retardation and developmental 67994
disabilities that the county board will have for calendar year 67995
2002 at least one-third of the value of one-half, effective mill 67996
levied in the county the preceding year available to pay the 67997
nonfederal share of the services that the county board is required 67998
by division (A) of this section to pay. 67999

If by December 31, 2002, the United States secretary approves 68000
at least five hundred more slots for home and community-based 68001
services for calendar year 2003 than were available for calendar 68002
year 2002, each county board shall provide, by the last day of 68003
calendar year 2002, assurances to the department that the county 68004
board will have for calendar year 2003 at least two-thirds of the 68005
value of one-half, effective mill levied in the county the 68006

preceding year available to pay the nonfederal share of the 68007
services that the county board is required by division (A) of this 68008
section to pay. 68009

If by December 31, 2003, the United States secretary approves 68010
at least five hundred more slots for home and community-based 68011
services for calendar year 2004 than were available for calendar 68012
year 2003, each county board shall provide, by the last day of 68013
calendar year 2003 and each calendar year thereafter, assurances 68014
to the department that the county board will have for calendar 68015
year 2004 and each calendar year thereafter at least the value of 68016
one-half, effective mill levied in the county the preceding year 68017
available to pay the nonfederal share of the services that the 68018
county board is required by division (A) of this section to pay. 68019

(D) Each year, each county board shall adopt a resolution 68020
specifying the amount of funds it will use in the next year to pay 68021
the nonfederal share of the services that the county board is 68022
required by division (A) of this section to pay. The amount 68023
specified shall be adequate to assure that the services will be 68024
available in the county in a manner that conforms to all 68025
applicable state and federal laws. A county board shall state in 68026
its resolution that the payment of the nonfederal share represents 68027
an ongoing financial commitment of the county board. A county 68028
board shall adopt the resolution in time for the county auditor to 68029
make the determination required by division (E) of this section. 68030

(E) Each year, a county auditor shall determine whether the 68031
amount of funds a county board specifies in the resolution it 68032
adopts under division (D) of this section will be available in the 68033
following year for the county board to pay the nonfederal share of 68034
the services that the county board is required by division (A) of 68035
this section to pay. The county auditor shall make the 68036
determination not later than the last day of the year before the 68037
year in which the funds are to be used. 68038

Sec. 5126.12. (A) As used in this section: 68039

(1) "Approved school age class" means a class operated by a 68040
county board of mental retardation and developmental disabilities 68041
and funded by the department of education under section 3317.20 of 68042
the Revised Code. 68043

(2) "Approved preschool unit" means a class or unit operated 68044
by a county board of mental retardation and developmental 68045
disabilities and approved under division (B) of section 3317.05 of 68046
the Revised Code. 68047

(3) "Active treatment" means a continuous treatment program, 68048
which includes aggressive, consistent implementation of a program 68049
of specialized and generic training, treatment, health services, 68050
and related services, that is directed toward the acquisition of 68051
behaviors necessary for an individual with mental retardation or 68052
other developmental disability to function with as much 68053
self-determination and independence as possible and toward the 68054
prevention of deceleration, regression, or loss of current optimal 68055
functional status. 68056

(4) "Eligible for active treatment" means that an individual 68057
with mental retardation or other developmental disability resides 68058
in an intermediate care facility for the mentally retarded 68059
certified under Title XIX of the "Social Security Act," 79 Stat. 68060
286 (1965), 42 U.S.C. 1396, as amended; resides in a state 68061
institution operated by the department of mental retardation and 68062
developmental disabilities; or is enrolled in home and 68063
community-based services. 68064

(5) ~~"Community alternative funding system" means the program 68065
under which habilitation center services are reimbursed under the 68066
medicaid program pursuant to section 5111.041 of the Revised Code 68067
and rules adopted under that section. 68068~~

~~(6)~~ "Traditional adult services" means vocational and 68069
nonvocational activities conducted within a sheltered workshop or 68070
adult activity center or supportive home services. 68071

(B) Each county board of mental retardation and developmental 68072
disabilities shall certify to the director of mental retardation 68073
and developmental disabilities all of the following: 68074

(1) On or before the fifteenth day of October, the average 68075
daily membership for the first full week of programs and services 68076
during October receiving: 68077

(a) Early childhood services provided pursuant to section 68078
5126.05 of the Revised Code for children who are less than three 68079
years of age on the thirtieth day of September of the academic 68080
year; 68081

(b) Special education for handicapped children in approved 68082
school age classes; 68083

(c) Adult services for persons sixteen years of age and older 68084
operated pursuant to section 5126.05 and division (B) of section 68085
5126.051 of the Revised Code. Separate counts shall be made for 68086
the following: 68087

(i) Persons enrolled in traditional adult services who are 68088
eligible for but not enrolled in active treatment ~~under the~~ 68089
~~community alternative funding system;~~ 68090

(ii) Persons enrolled in traditional adult services who are 68091
eligible for and enrolled in active treatment ~~under the community~~ 68092
~~alternative funding system;~~ 68093

(iii) Persons enrolled in traditional adult services but who 68094
are not eligible for active treatment ~~under the community~~ 68095
~~alternative funding system;~~ 68096

(iv) Persons participating in community employment services. 68097
To be counted as participating in community employment services, a 68098

person must have spent an average of no less than ten hours per 68099
week in that employment during the preceding six months. 68100

(d) Other programs in the county for individuals with mental 68101
retardation and developmental disabilities that have been approved 68102
for payment of subsidy by the department of mental retardation and 68103
developmental disabilities. 68104

The membership in each such program and service in the county 68105
shall be reported on forms prescribed by the department of mental 68106
retardation and developmental disabilities. 68107

The department of mental retardation and developmental 68108
disabilities shall adopt rules defining full-time equivalent 68109
enrollees and for determining the average daily membership 68110
therefrom, except that certification of average daily membership 68111
in approved school age classes shall be in accordance with rules 68112
adopted by the state board of education. The average daily 68113
membership figure shall be determined by dividing the amount 68114
representing the sum of the number of enrollees in each program or 68115
service in the week for which the certification is made by the 68116
number of days the program or service was offered in that week. No 68117
enrollee may be counted in average daily membership for more than 68118
one program or service. 68119

(2) By the fifteenth day of December, the number of children 68120
enrolled in approved preschool units on the first day of December; 68121

(3) On or before the thirtieth day of March, an itemized 68122
report of all income and operating expenditures for the 68123
immediately preceding calendar year, in the format specified by 68124
the department of mental retardation and developmental 68125
disabilities; 68126

(4) By the fifteenth day of February, a report of the total 68127
annual cost per enrollee for operation of programs and services in 68128
the preceding calendar year. The report shall include a grand 68129

total of all programs operated, the cost of the individual 68130
programs, and the sources of funds applied to each program. 68131

(5) That each required certification and report is in 68132
accordance with rules established by the department of mental 68133
retardation and developmental disabilities and the state board of 68134
education for the operation and subsidization of the programs and 68135
services. 68136

(C) To compute payments under this section to the board for 68137
the fiscal year, the department of mental retardation and 68138
developmental disabilities shall use the certification of average 68139
daily membership required by division (B)(1) of this section 68140
exclusive of the average daily membership in any approved school 68141
age class and the number in any approved preschool unit. 68142

(D) The department shall pay each county board for each 68143
fiscal year an amount equal to nine hundred fifty dollars times 68144
the certified number of persons who on the first day of December 68145
of the academic year are under three years of age and are not in 68146
an approved preschool unit. For persons who are at least age 68147
sixteen and are not in an approved school age class, the 68148
department shall pay each county board for each fiscal year the 68149
following amounts: 68150

(1) One thousand dollars times the certified average daily 68151
membership of persons enrolled in traditional adult services who 68152
are eligible for but not enrolled in active treatment ~~under the~~ 68153
~~community alternative funding system;~~ 68154

(2) One thousand two hundred dollars times the certified 68155
average daily membership of persons enrolled in traditional adult 68156
services who are eligible for and enrolled in active treatment 68157
~~under the community alternative funding system;~~ 68158

(3) No less than one thousand five hundred dollars times the 68159
certified average daily membership of persons enrolled in 68160

traditional adult services but who are not eligible for active 68161
treatment ~~under the community alternative funding system;~~ 68162

(4) No less than one thousand five hundred dollars times the 68163
certified average daily membership of persons participating in 68164
community employment services. 68165

(E) The department shall distribute this subsidy to county 68166
boards in quarterly installments of equal amounts. The 68167
installments shall be made not later than the thirtieth day of 68168
September, the thirty-first day of December, the thirty-first day 68169
of March, and the thirtieth day of June. 68170

(F) The director of mental retardation and developmental 68171
disabilities shall make efforts to obtain increases in the 68172
subsidies for early childhood services and adult services so that 68173
the amount of the subsidies is equal to at least fifty per cent of 68174
the statewide average cost of those services minus any applicable 68175
federal reimbursements for those services. The director shall 68176
advise the director of budget and management of the need for any 68177
such increases when submitting the biennial appropriations request 68178
for the department. 68179

(G) In determining the reimbursement of a county board for 68180
the provision of service and support administration, family 68181
support services, and other services required or approved by the 68182
director for which children three through twenty-one years of age 68183
are eligible, the department shall include the average daily 68184
membership in approved school age or preschool units. The 68185
department, in accordance with this section and upon receipt and 68186
approval of the certification required by this section and any 68187
other information it requires to enable it to determine a board's 68188
payments, shall pay the agency providing the specialized training 68189
the amounts payable under this section. 68190

Sec. 5139.01. (A) As used in this chapter:	68191
(1) "Commitment" means the transfer of the physical custody of a child or youth from the court to the department of youth services.	68192 68193 68194
(2) "Permanent commitment" means a commitment that vests legal custody of a child in the department of youth services.	68195 68196
(3) "Legal custody," insofar as it pertains to the status that is created when a child is permanently committed to the department of youth services, means a legal status in which the department has the following rights and responsibilities: the right to have physical possession of the child; the right and duty to train, protect, and control the child; the responsibility to provide the child with food, clothing, shelter, education, and medical care; and the right to determine where and with whom the child shall live, subject to the minimum periods of, or periods of, institutional care prescribed in sections 2152.13 to 2152.18 of the Revised Code; provided, that these rights and responsibilities are exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child, and subject to any residual parental rights and responsibilities.	68197 68198 68199 68200 68201 68202 68203 68204 68205 68206 68207 68208 68209 68210 68211
(4) Unless the context requires a different meaning, "institution" means a state facility that is created by the general assembly and that is under the management and control of the department of youth services or a private entity with which the department has contracted for the institutional care and custody of felony delinquents.	68212 68213 68214 68215 68216 68217
(5) "Full-time care" means care for twenty-four hours a day for over a period of at least two consecutive weeks.	68218 68219
(6) "Placement" means the conditional release of a child	68220

under the terms and conditions that are specified by the 68221
department of youth services. The department shall retain legal 68222
custody of a child released pursuant to division (C) of section 68223
2152.22 of the Revised Code or division (C) of section 5139.06 of 68224
the Revised Code until the time that it discharges the child or 68225
until the legal custody is terminated as otherwise provided by 68226
law. 68227

(7) "Home placement" means the placement of a child in the 68228
home of the child's parent or parents or in the home of the 68229
guardian of the child's person. 68230

(8) "Discharge" means that the department of youth services' 68231
legal custody of a child is terminated. 68232

(9) "Release" means the termination of a child's stay in an 68233
institution and the subsequent period during which the child 68234
returns to the community under the terms and conditions of 68235
supervised release. 68236

(10) "Delinquent child" has the same meaning as in section 68237
2152.02 of the Revised Code. 68238

(11) "Felony delinquent" means any child who is at least ten 68239
years of age but less than eighteen years of age and who is 68240
adjudicated a delinquent child for having committed an act that if 68241
committed by an adult would be a felony. "Felony delinquent" 68242
includes any adult who is between the ages of eighteen and 68243
twenty-one and who is in the legal custody of the department of 68244
youth services for having committed an act that if committed by an 68245
adult would be a felony. 68246

(12) "Juvenile traffic offender" has the same meaning as in 68247
section 2152.02 of the Revised Code. 68248

(13) "Public safety beds" means all of the following: 68249

(a) Felony delinquents who have been committed to the 68250

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

(b) Felony delinquents who, while committed to the department
of youth services and in the care and custody of an institution or
a community corrections facility, are adjudicated delinquent
children for having committed in that institution or community
corrections facility an act that if committed by an adult would be
a misdemeanor or a felony;

(c) Children who satisfy all of the following:

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

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

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

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

(d) Felony delinquents who, while committed to the department
of youth services and in the care and custody of an institution
are serving disciplinary time for having committed an act
described in division (A)~~(19)~~(18)(a), (b), or (c) of this section,
and who have been institutionalized or institutionalized in a
secure facility for the minimum period of time specified in
divisions (A)(1)(b) to (e) of section 2152.16 of the Revised Code.

(e) Felony delinquents who are subject to and serving a 68281
three-year period of commitment order imposed by a juvenile court 68282
pursuant to divisions (A) and (B) of section 2152.17 of the 68283
Revised Code for an act, other than a violation of section 2911.11 68284
of the Revised Code, that would be a category one offense or 68285
category two offense if committed by an adult. 68286

(f) Felony delinquents who are described in divisions 68287
(A)(13)(a) to (e) of this section, who have been granted a 68288
judicial release to court supervision under division (B) of 68289
section 2152.22 of the Revised Code or a judicial release to the 68290
department of youth services supervision under division (C) of 68291
that section from the commitment to the department of youth 68292
services for the act described in divisions (A)(13)(a) to (e) of 68293
this section, who have violated the terms and conditions of that 68294
release, and who, pursuant to an order of the court of the county 68295
in which the particular felony delinquent was placed on release 68296
that is issued pursuant to division (D) of section 2152.22 of the 68297
Revised Code, have been returned to the department for 68298
institutionalization or institutionalization in a secure facility. 68299

(g) Felony delinquents who have been committed to the custody 68300
of the department of youth services, who have been granted 68301
supervised release from the commitment pursuant to section 5139.51 68302
of the Revised Code, who have violated the terms and conditions of 68303
that supervised release, and who, pursuant to an order of the 68304
court of the county in which the particular child was placed on 68305
supervised release issued pursuant to division (F) of section 68306
5139.52 of the Revised Code, have had the supervised release 68307
revoked and have been returned to the department for 68308
institutionalization. A felony delinquent described in this 68309
division shall be a public safety bed only for the time during 68310
which the felony delinquent is institutionalized as a result of 68311
the revocation subsequent to the initial thirty-day period of 68312

institutionalization required by division (F) of section 5139.52 68313
of the Revised Code. 68314

(14) Unless the context requires a different meaning, 68315
"community corrections facility" means a county or multicounty 68316
rehabilitation center for felony delinquents who have been 68317
committed to the department of youth services and diverted from 68318
care and custody in an institution and placed in the 68319
rehabilitation center pursuant to division (E) of section 5139.36 68320
of the Revised Code. 68321

(15) "Secure facility" means any facility that is designed 68322
and operated to ensure that all of its entrances and exits are 68323
under the exclusive control of its staff and to ensure that, 68324
because of that exclusive control, no child who has been 68325
institutionalized in the facility may leave the facility without 68326
permission or supervision. 68327

(16) "Community residential program" means a program that 68328
satisfies both of the following: 68329

(a) It is housed in a building or other structure that has no 68330
associated major restraining construction, including, but not 68331
limited to, a security fence. 68332

(b) It provides twenty-four-hour care, supervision, and 68333
programs for felony delinquents who are in residence. 68334

(17) "Category one offense" and "category two offense" have 68335
the same meanings as in section 2151.26 of the Revised Code. 68336

(18) "Disciplinary time" means additional time that the 68337
department of youth services requires a felony delinquent to serve 68338
in an institution, that delays the felony delinquent's planned 68339
release, and that the department imposes upon the felony 68340
delinquent following the conduct of an internal due process 68341
hearing for having committed any of the following acts while 68342

committed to the department and in the care and custody of an institution: 68343
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(a) An act that if committed by an adult would be a felony; 68345

(b) An act that if committed by an adult would be a misdemeanor; 68346
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(c) An act that is not described in division (A)(18)(a) or (b) of this section and that violates an institutional rule of conduct of the department. 68348
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(19) "Unruly child" has the same meaning as in section 2151.022 of the Revised Code. 68351
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(20) "Revocation" means the act of revoking a child's supervised release for a violation of a term or condition of the child's supervised release in accordance with section 5139.52 of the Revised Code. 68353
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(21) "Release authority" means the release authority of the department of youth services that is established by section 5139.50 of the Revised Code. 68357
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(22) "Supervised release" means the event of the release of a child under this chapter from an institution and the period after that release during which the child is supervised and assisted by an employee of the department of youth services under specific terms and conditions for reintegration of the child into the community. 68360
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(23) "Victim" means the person identified in a police report, complaint, or information as the victim of an act that would have been a criminal offense if committed by an adult and that provided the basis for adjudication proceedings resulting in a child's commitment to the legal custody of the department of youth services. 68366
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(24) "Victim's representative" means a member of the victim's 68372

family or another person whom the victim or another authorized
person designates in writing, pursuant to section 5139.56 of the
Revised Code, to represent the victim with respect to proceedings
of the release authority of the department of youth services and
with respect to other matters specified in that section.

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

(26) "Judicial release to court supervision" means a release
of a child from institutional care or institutional care in a
secure facility that is granted by a court pursuant to division
(B) of section 2152.22 of the Revised Code during the period
specified in that division.

(27) "Judicial release to department of youth services
supervision" means a release of a child from institutional care or
institutional care in a secure facility that is granted by a court
pursuant to division (C) of section 2152.22 of the Revised Code
during the period specified in that division.

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

(29) "Metropolitan county criminal justice services agency"
means an agency that is established pursuant to division (A) of

section ~~181.54~~ 5502.64 of the Revised Code. 68404

(30) "Administrative planning district" means a district that 68405
is established pursuant to division (A) or (B) of section ~~181.56~~ 68406
5502.66 of the Revised Code. 68407

(31) "Criminal justice coordinating council" means a criminal 68408
justice services agency that is established pursuant to division 68409
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 68410

(32) "Comprehensive plan" means a document that coordinates, 68411
evaluates, and otherwise assists, on an annual or multi-year 68412
basis, all of the functions of the juvenile justice systems of the 68413
state or a specified area of the state, that conforms to the 68414
priorities of the state with respect to juvenile justice systems, 68415
and that conforms with the requirements of all federal criminal 68416
justice acts. These functions include, but are not limited to, all 68417
of the following: 68418

(a) Delinquency; 68419

(b) Identification, detection, apprehension, and detention of 68420
persons charged with delinquent acts; 68421

(c) Assistance to crime victims or witnesses, except that the 68422
comprehensive plan does not include the functions of the attorney 68423
general pursuant to sections 109.91 and 109.92 of the Revised 68424
Code; 68425

(d) Adjudication or diversion of persons charged with 68426
delinquent acts; 68427

(e) Custodial treatment of delinquent children; 68428

(f) Institutional and noninstitutional rehabilitation of 68429
delinquent children. 68430

(B) There is hereby created the department of youth services. 68431
The governor shall appoint the director of the department with the 68432
advice and consent of the senate. The director shall hold office 68433

during the term of the appointing governor but subject to removal
at the pleasure of the governor. Except as otherwise authorized in
section 108.05 of the Revised Code, the director shall devote the
director's entire time to the duties of the director's office and
shall hold no other office or position of trust or profit during
the director's term of office.

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

Sec. 5139.36. (A) In accordance with this section and the
rules adopted under it and from funds appropriated to the
department of youth services for the purposes of this section, the
department shall make grants that provide financial resources to
operate community corrections facilities for felony delinquents.

(B)(1) Each community corrections facility that intends to
seek a grant under this section shall file an application with the
department of youth services at the time and in accordance with
the procedures that the department shall establish by rules
adopted in accordance with Chapter 119. of the Revised Code. In
addition to other items required to be included in the
application, a plan that satisfies both of the following shall be

included: 68465

(a) It reduces the number of felony delinquents committed to the department from the county or counties associated with the community corrections facility. 68466
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(b) It ensures equal access for minority felony delinquents to the programs and services for which a potential grant would be used. 68469
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(2) The department of youth services shall review each application submitted pursuant to division (B)(1) of this section to determine whether the plan described in that division, the community corrections facility, and the application comply with this section and the rules adopted under it. 68472
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(C) To be eligible for a grant under this section and for continued receipt of moneys comprising a grant under this section, a community corrections facility shall satisfy at least all of the following requirements: 68477
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(1) Be constructed, reconstructed, improved, or financed by the Ohio building authority pursuant to section 307.021 of the Revised Code and Chapter 152. of the Revised Code for the use of the department of youth services and be designated as a community corrections facility; 68481
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(2) Have written standardized criteria governing the types of felony delinquents that are eligible for the programs and services provided by the facility; 68486
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(3) Have a written standardized intake screening process and an intake committee that at least performs both of the following tasks: 68489
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68491

(a) Screens all eligible felony delinquents who are being considered for admission to the facility in lieu of commitment to the department; 68492
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(b) Notifies, within ten days after the date of the referral of a felony delinquent to the facility, the committing court whether the felony delinquent will be admitted to the facility.

(4) Comply with all applicable fiscal and program rules that the department adopts in accordance with Chapter 119. of the Revised Code and demonstrate that felony delinquents served by the facility have been or will be diverted from a commitment to the department.

(D) The department of youth services shall determine the method of distribution of the funds appropriated for grants under this section to community corrections facilities.

(E)(1) The department of youth services shall adopt rules in accordance with Chapter 119. of the Revised Code to establish the minimum occupancy threshold of community corrections facilities.

(2) The department may make referrals for the placement of children in its custody to a community corrections facility ~~if the community corrections facility is not meeting the minimum occupancy threshold established by the department.~~ At least forty-five days prior to the referral of a child or within any shorter period prior to the referral of the child that the committing court may allow, the department shall notify the committing court of its intent to place the child in a community corrections facility. The court shall have thirty days after the receipt of the notice to approve or disapprove the placement. If the court does not respond to the notice of the placement within that thirty-day period, the department shall proceed with the placement and debit the county in accordance with sections 5139.41 to 5139.43 of the Revised Code. A child placed in a community corrections facility pursuant to this division shall remain in the legal custody of the department of youth services during the period in which the child is in the community corrections

facility. 68526

(3) Counties that are not associated with a community 68527
corrections facility may refer children to a community corrections 68528
facility with the consent of the facility. The department of youth 68529
services shall debit the county that makes the referral in 68530
accordance with sections 5139.41 to 5139.43 of the Revised Code. 68531

(F) If the board or other governing body of a community 68532
corrections facility establishes an advisory board, the board or 68533
other governing authority of the community corrections facility 68534
shall reimburse the members of the advisory board for their actual 68535
and necessary expenses incurred in the performance of their 68536
official duties on the advisory board. The members of advisory 68537
boards shall serve without compensation. 68538

Sec. 5153.16. (A) Except as provided in section 2151.422 of 68539
the Revised Code, in accordance with rules of the department of 68540
job and family services, and on behalf of children in the county 68541
whom the public children services agency considers to be in need 68542
of public care or protective services, the public children 68543
services agency shall do all of the following: 68544

(1) Make an investigation concerning any child alleged to be 68545
an abused, neglected, or dependent child; 68546

(2) Enter into agreements with the parent, guardian, or other 68547
person having legal custody of any child, or with the department 68548
of job and family services, department of mental health, 68549
department of mental retardation and developmental disabilities, 68550
other department, any certified organization within or outside the 68551
county, or any agency or institution outside the state, having 68552
legal custody of any child, with respect to the custody, care, or 68553
placement of any child, or with respect to any matter, in the 68554
interests of the child, provided the permanent custody of a child 68555
shall not be transferred by a parent to the public children 68556

services agency without the consent of the juvenile court; 68557

(3) Accept custody of children committed to the public 68558
children services agency by a court exercising juvenile 68559
jurisdiction; 68560

(4) Provide such care as the public children services agency 68561
considers to be in the best interests of any child adjudicated to 68562
be an abused, neglected, or dependent child the agency finds to be 68563
in need of public care or service; 68564

(5) Provide social services to any unmarried girl adjudicated 68565
to be an abused, neglected, or dependent child who is pregnant 68566
with or has been delivered of a child; 68567

(6) Make available to the bureau for children with medical 68568
handicaps of the department of health at its request any 68569
information concerning a crippled child found to be in need of 68570
treatment under sections 3701.021 to 3701.028 of the Revised Code 68571
who is receiving services from the public children services 68572
agency; 68573

(7) Provide temporary emergency care for any child considered 68574
by the public children services agency to be in need of such care, 68575
without agreement or commitment; 68576

(8) Find certified foster homes, within or outside the 68577
county, for the care of children, including handicapped children 68578
from other counties attending special schools in the county; 68579

(9) Subject to the approval of the board of county 68580
commissioners and the state department of job and family services, 68581
establish and operate a training school or enter into an agreement 68582
with any municipal corporation or other political subdivision of 68583
the county respecting the operation, acquisition, or maintenance 68584
of any children's home, training school, or other institution for 68585
the care of children maintained by such municipal corporation or 68586

political subdivision; 68587

(10) Acquire and operate a county children's home, establish, 68588
maintain, and operate a receiving home for the temporary care of 68589
children, or procure certified foster homes for this purpose; 68590

(11) Enter into an agreement with the trustees of any 68591
district children's home, respecting the operation of the district 68592
children's home in cooperation with the other county boards in the 68593
district; 68594

(12) Cooperate with, make its services available to, and act 68595
as the agent of persons, courts, the department of job and family 68596
services, the department of health, and other organizations within 68597
and outside the state, in matters relating to the welfare of 68598
children, except that the public children services agency shall 68599
not be required to provide supervision of or other services 68600
related to the exercise of parenting time rights granted pursuant 68601
to section 3109.051 or 3109.12 of the Revised Code or 68602
companionship or visitation rights granted pursuant to section 68603
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 68604
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 68605
a common pleas court, pursuant to division (E)(6) of section 68606
3113.31 of the Revised Code, requires the provision of supervision 68607
or other services related to the exercise of the parenting time 68608
rights or companionship or visitation rights; 68609

(13) Make investigations at the request of any superintendent 68610
of schools in the county or the principal of any school concerning 68611
the application of any child adjudicated to be an abused, 68612
neglected, or dependent child for release from school, where such 68613
service is not provided through a school attendance department; 68614

(14) Administer funds provided under Title IV-E of the 68615
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 68616
amended, in accordance with rules adopted under section 5101.141 68617

of the Revised Code; 68618

(15) In addition to administering Title IV-E adoption 68619
assistance funds, enter into agreements to make adoption 68620
assistance payments under section 5153.163 of the Revised Code; 68621

(16) Implement a system of risk assessment, in accordance 68622
with rules adopted by the director of job and family services, to 68623
assist the public children services agency in determining the risk 68624
of abuse or neglect to a child; 68625

(17) Enter into a plan of cooperation with the board of 68626
county commissioners under section 307.983 of the Revised Code and 68627
comply with each fiscal agreement the board enters into under 68628
section 307.98 of the Revised Code that include family services 68629
duties of public children services agencies and contracts the 68630
board enters into under sections 307.981 and 307.982 of the 68631
Revised Code that affect the public children services agency; 68632

(18) Make reasonable efforts to prevent the removal of an 68633
alleged or adjudicated abused, neglected, or dependent child from 68634
the child's home, eliminate the continued removal of the child 68635
from the child's home, or make it possible for the child to return 68636
home safely, except that reasonable efforts of that nature are not 68637
required when a court has made a determination under division 68638
(A)(2) of section 2151.419 of the Revised Code; 68639

(19) Make reasonable efforts to place the child in a timely 68640
manner in accordance with the permanency plan approved under 68641
division (E) of section 2151.417 of the Revised Code and to 68642
complete whatever steps are necessary to finalize the permanent 68643
placement of the child; 68644

(20) Administer a Title IV-A program identified under 68645
division (A)~~(3)~~(4)(c) or ~~(d)~~(f) of section 5101.80 of the Revised 68646
Code that the department of job and family services provides for 68647
the public children services agency to administer under the 68648

department's supervision pursuant to section 5101.801 of the Revised Code;

(21) Administer the kinship permanency incentive program created under section 5101.802 of the Revised Code under the supervision of the director of job and family services;

(22) Provide independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code.

(B) The public children services agency shall use the system implemented pursuant to division (B)(16) of this section in connection with an investigation undertaken pursuant to division (F)(1) of section 2151.421 of the Revised Code and may use the system at any other time the agency is involved with any child when the agency determines that risk assessment is necessary.

(C) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the director of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may do the following:

(1) Provide or find, with other child serving systems, specialized foster care for the care of children in a specialized foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code;

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of this section, contract with the following for the purpose of assisting the agency with its duties:

(i) County departments of job and family services;

(ii) Boards of alcohol, drug addiction, and mental health services;

(iii) County boards of mental retardation and developmental

disabilities;	68679
(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;	68680 68681
(v) Private and government providers of services;	68682
(vi) Managed care organizations and prepaid health plans.	68683
(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules.	68684 68685 68686 68687 68688
(c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties.	68689 68690 68691 68692 68693 68694 68695 68696
Sec. 5502.01. (A) The department of public safety shall administer and enforce the laws relating to the registration, licensing, sale, and operation of motor vehicles and the laws pertaining to the licensing of drivers of motor vehicles.	68697 68698 68699 68700
The department shall compile, analyze, and publish statistics relative to motor vehicle accidents and the causes of them, prepare and conduct educational programs for the purpose of promoting safety in the operation of motor vehicles on the highways, and conduct research and studies for the purpose of promoting safety on the highways of this state.	68701 68702 68703 68704 68705 68706
(B) The department shall administer the laws and rules relative to trauma and emergency medical services specified in	68707 68708

Chapter 4765. of the Revised Code. 68709

(C) The department shall administer and enforce the laws 68710
contained in Chapters 4301. and 4303. of the Revised Code and 68711
enforce the rules and orders of the liquor control commission 68712
pertaining to retail liquor permit holders. 68713

(D) The department shall administer the laws governing the 68714
state emergency management agency and shall enforce all additional 68715
duties and responsibilities as prescribed in the Revised Code 68716
related to emergency management services. 68717

(E) The department shall conduct investigations pursuant to 68718
Chapter 5101. of the Revised Code in support of the duty of the 68719
department of job and family services to administer food stamp 68720
programs throughout this state. The department of public safety 68721
shall conduct investigations necessary to protect the state's 68722
property rights and interests in the food stamp program. 68723

(F) The department of public safety shall enforce compliance 68724
with orders and rules of the public utilities commission and 68725
applicable laws in accordance with Chapters 4919., 4921., and 68726
4923. of the Revised Code regarding commercial motor vehicle 68727
transportation safety, economic, and hazardous materials 68728
requirements. 68729

(G) Notwithstanding Chapter 4117. of the Revised Code, the 68730
department of public safety may establish requirements for its 68731
enforcement personnel, including its enforcement agents described 68732
in section 5502.14 of the Revised Code, that include standards of 68733
conduct, work rules and procedures, and criteria for eligibility 68734
as law enforcement personnel. 68735

(H) The department shall administer, maintain, and operate 68736
the Ohio criminal justice network. The Ohio criminal justice 68737
network shall be a computer network that supports state and local 68738
criminal justice activities. The network shall be an electronic 68739

repository for various data, which may include arrest warrants, 68740
notices of persons wanted by law enforcement agencies, criminal 68741
records, prison inmate records, stolen vehicle records, vehicle 68742
operator's licenses, and vehicle registrations and titles. 68743

(I) The department shall coordinate all homeland security 68744
activities of all state agencies and shall be a liaison between 68745
state agencies and local entities for those activities and related 68746
purposes. 68747

(J) Beginning July 1, 2004, the department shall administer 68748
and enforce the laws relative to private investigators and 68749
security service providers specified in Chapter 4749. of the 68750
Revised Code. 68751

(K) The department shall administer criminal justice services 68752
in accordance with sections 5502.61 to 5502.66 of the Revised 68753
Code. 68754

Sec. 5502.03. (A) There is hereby created in the department 68755
of public safety a division of homeland security. It is the intent 68756
of the general assembly that the creation of the division of 68757
homeland security of the department of public safety by this 68758
amendment does not result in an increase of funding appropriated 68759
to the department. 68760

(B)(1) The division shall coordinate all homeland security 68761
activities of all state agencies and shall be the liaison between 68762
state agencies and local entities for the purposes of 68763
communicating homeland security funding and policy initiatives. 68764

(2) The division and the department shall distribute any 68765
homeland security funds on a county basis and shall not distribute 68766
those funds on a regional basis unless federal law requires 68767
distribution on a regional basis. 68768

(C) The director of public safety shall appoint an executive 68769

director, who shall be head of the division of homeland security 68770
and who regularly shall advise the governor and the director on 68771
matters pertaining to homeland security. The executive director 68772
shall serve at the pleasure of the director of public safety. To 68773
carry out the duties assigned under this section, the executive 68774
director, subject to the direction and control of the director of 68775
public safety, may appoint and maintain necessary staff and may 68776
enter into any necessary agreements. 68777

(D) Except as otherwise provided by law, nothing in this 68778
section shall be construed to give the director of public safety 68779
or the executive director of the division of homeland security 68780
authority over the incident management structure or 68781
responsibilities of local emergency response personnel. 68782

Sec. ~~181.51~~ 5502.61. As used in sections ~~181.51~~ 5502.61 to 68783
~~181.56~~ 5502.66 of the Revised Code: 68784

(A) "Federal criminal justice acts" means any federal law 68785
that authorizes financial assistance and other forms of assistance 68786
to be given by the federal government to the states to be used for 68787
the improvement of the criminal and juvenile justice systems of 68788
the states. 68789

(B)(1) "Criminal justice system" includes all of the 68790
functions of the following: 68791

(a) The state highway patrol, county sheriff offices, 68792
municipal and township police departments, and all other law 68793
enforcement agencies; 68794

(b) The courts of appeals, courts of common pleas, municipal 68795
courts, county courts, and mayor's courts, when dealing with 68796
criminal cases; 68797

(c) The prosecuting attorneys, city directors of law, village 68798
solicitors, and other prosecuting authorities when prosecuting or 68799

otherwise handling criminal cases and the county and joint county
public defenders and other public defender agencies or offices; 68800
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(d) The department of rehabilitation and correction,
probation departments, county and municipal jails and workhouses,
and any other department, agency, or facility that is concerned
with the rehabilitation or correction of criminal offenders; 68802
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(e) Any public or private agency whose purposes include the
prevention of crime or the diversion, adjudication, detention, or
rehabilitation of criminal offenders; 68806
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(f) Any public or private agency, the purposes of which
include assistance to crime victims or witnesses. 68809
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(2) The inclusion of any public or private agency, the
purposes of which include assistance to crime victims or
witnesses, as part of the criminal justice system pursuant to
division (B)(1) of this section does not limit, and shall not be
construed as limiting, the discretion or authority of the attorney
general with respect to crime victim assistance and criminal
justice programs. 68811
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(C) "Juvenile justice system" includes all of the functions
of the juvenile courts, the department of youth services, any
public or private agency whose purposes include the prevention of
delinquency or the diversion, adjudication, detention, or
rehabilitation of delinquent children, and any of the functions of
the criminal justice system that are applicable to children. 68818
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(D) "Comprehensive plan" means a document that coordinates,
evaluates, and otherwise assists, on an annual or multi-year
basis, any of the functions of the criminal and juvenile justice
systems of the state or a specified area of the state, that
conforms to the priorities of the state with respect to criminal
and juvenile justice systems, and that conforms with the
requirements of all federal criminal justice acts. These functions 68824
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may include, but are not limited to, any of the following:	68831
(1) Crime and delinquency prevention;	68832
(2) Identification, detection, apprehension, and detention of persons charged with criminal offenses or delinquent acts;	68833 68834
(3) Assistance to crime victims or witnesses, except that the comprehensive plan does not include the functions of the attorney general pursuant to sections 109.91 and 109.92 of the Revised Code;	68835 68836 68837 68838
(4) Adjudication or diversion of persons charged with criminal offenses or delinquent acts;	68839 68840
(5) Custodial treatment of criminal offenders, delinquent children, or both;	68841 68842
(6) Institutional and noninstitutional rehabilitation of criminal offenders, delinquent children, or both.	68843 68844
(E) "Metropolitan county criminal justice services agency" means an agency that is established pursuant to division (A) of section 181.54 <u>5502.64</u> of the Revised Code.	68845 68846 68847
(F) "Administrative planning district" means a district that is established pursuant to division (A) or (B) of section 181.56 <u>5502.66</u> of the Revised Code.	68848 68849 68850
(G) "Criminal justice coordinating council" means a criminal justice services agency that is established pursuant to division (D) of section 181.56 <u>5502.66</u> of the Revised Code.	68851 68852 68853
(H) "Local elected official" means any person who is a member of a board of county commissioners or township trustees or of a city or village council, judge of the court of common pleas, a municipal court, or a county court, sheriff, county coroner, prosecuting attorney, city director of law, village solicitor, or mayor.	68854 68855 68856 68857 68858 68859

(I) "Juvenile justice coordinating council" means a juvenile 68860
justice services agency that is established pursuant to division 68861
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 68862

Sec. ~~181.52~~ 5502.62. (A) There is hereby created ~~an office in~~ 68863
~~the department of public safety a division~~ of criminal justice 68864
services. ~~The governor~~ director of public safety, with the 68865
concurrence of the governor, shall appoint a an executive director 68866
of the ~~office,~~ and ~~the director may appoint, within the office,~~ 68867
~~any professional and technical personnel and other employees that~~ 68868
~~are necessary to enable the office to comply with sections 181.51~~ 68869
~~to 181.56 of the Revised Code~~ division of criminal justice 68870
services. The executive director shall be the head of the 68871
division. The executive director shall serve at the pleasure of 68872
the director of public safety. To carry out the duties assigned 68873
under this section and to comply with sections 5502.63 to 5502.66 68874
of the Revised Code, the executive director, subject to the 68875
direction and control of the director of public safety, may 68876
appoint and maintain any necessary staff and may enter into any 68877
necessary contracts and other agreements. The executive director 68878
~~and the assistant director of the office~~ division, and all 68879
professional and technical personnel employed within the ~~office~~ 68880
division who are not public employees as defined in section 68881
4117.01 of the Revised Code, shall be in the unclassified civil 68882
service, and all other persons employed within the ~~office~~ division 68883
shall be in the classified civil service. ~~The director may enter~~ 68884
~~into any contracts, except contracts governed by Chapter 4117. of~~ 68885
~~the Revised Code, that are necessary for the operation of the~~ 68886
~~office.~~ 68887

(B) Subject to division (E) of this section and subject to 68888
divisions (D) to (F) of section 5120.09 of the Revised Code 68889
insofar as those divisions relate to federal criminal justice acts 68890

that the governor requires the department of rehabilitation and
correction to administer, the ~~office~~ division of criminal justice
services shall do all of the following:

(1) Serve as the state criminal justice services agency and
perform criminal justice system planning in the state, including
any planning that is required by any federal law;

(2) Collect, analyze, and correlate information and data
concerning the criminal justice system in the state;

(3) Cooperate with and provide technical assistance to state
departments, administrative planning districts, metropolitan
county criminal justice services agencies, criminal justice
coordinating councils, agencies, offices, and departments of the
criminal justice system in the state, and other appropriate
organizations and persons;

(4) Encourage and assist agencies, offices, and departments
of the criminal justice system in the state and other appropriate
organizations and persons to solve problems that relate to the
duties of the ~~office~~ division;

(5) Administer within the state any federal criminal justice
acts that the governor requires it to administer;

(6) Administer funds received under the "Family Violence
Prevention and Services Act," 98 Stat. 1757 (1984), 42 U.S.C.A.
10401, as amended, with all powers necessary for the adequate
administration of those funds, including the authority to
establish a family violence prevention and services program.

(7) Implement the state comprehensive plans;

(8) Audit grant activities of agencies, offices,
organizations, and persons that are financed in whole or in part
by funds granted through the ~~office~~ division;

(9) Monitor or evaluate the performance of criminal justice

system projects and programs in the state that are financed in whole or in part by funds granted through the ~~office~~ division; 68921
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(10) Apply for, allocate, disburse, and account for grants that are made available pursuant to federal criminal justice acts, or made available from other federal, state, or private sources, to improve the criminal justice system in the state. ~~All~~ Except as otherwise provided in this division, all money from such federal grants shall, if the terms under which the money is received require that the money be deposited into an interest-bearing fund or account, be deposited in the state treasury to the credit of the federal program purposes fund, which is hereby created. All investment earnings of the federal program purposes fund shall be credited to the fund. All money from such federal grants that require that the money be deposited into an interest-bearing fund or account, that are intended to provide funding to local criminal justice programs, and that require that investment earnings be distributed for program purposes shall be deposited in the state treasury to the credit of the federal justice programs fund, which is hereby created. All investment earnings of the federal justice programs fund shall be credited to the fund and distributed in accordance with the terms of the grant under which the money is received. 68923
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(11) Contract with federal, state, and local agencies, foundations, corporations, businesses, and persons when necessary to carry out the duties of the ~~office~~ division; 68943
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(12) Oversee the activities of metropolitan county criminal justice services agencies, administrative planning districts, and criminal justice coordinating councils in the state; 68946
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(13) Advise the director of public safety, general assembly, and governor on legislation and other significant matters that pertain to the improvement and reform of criminal and juvenile 68949
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justice systems in the state;	68952
(14) Prepare and recommend legislation to the <u>director of public safety</u> , general assembly, and governor for the improvement of the criminal and juvenile justice systems in the state;	68953 68954 68955
(15) Assist, advise, and make any reports that are requested or required by the governor, <u>director of public safety</u> , attorney general, or general assembly;	68956 68957 68958
(16) Adopt <u>Subject to the approval of the director of public safety, adopt</u> rules pursuant to Chapter 119. of the Revised Code.	68959 68960
(C) Upon the request of the <u>director of public safety</u> or governor, the office <u>division</u> of criminal justice services may do any of the following:	68961 68962 68963
(1) Collect, analyze, or correlate information and data concerning the juvenile justice system in the state;	68964 68965
(2) Cooperate with and provide technical assistance to state departments, administrative planning districts, metropolitan county criminal justice service agencies, criminal justice coordinating councils, agency offices, and the departments of the juvenile justice system in the state and other appropriate organizations and persons;	68966 68967 68968 68969 68970 68971
(3) Encourage and assist agencies, offices, and departments of the juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the office <u>division</u> .	68972 68973 68974 68975
(D) Divisions (B) and (C) of this section do not limit the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice programs.	68976 68977 68978
(E) Nothing in this section is intended to diminish or alter the status of the office of the attorney general as a criminal justice services agency.	68979 68980 68981

Sec. ~~181.251~~ 5502.63. The ~~office~~ division of criminal justice services in the department of public safety shall prepare a poster and a brochure that describe safe firearms practices. The poster and brochure shall contain typeface that is at least one-quarter inch tall. The ~~office~~ division shall furnish copies of the poster and brochure free of charge to each federally licensed firearms dealer in this state.

As used in this section, "federally licensed firearms dealer" means an importer, manufacturer, or dealer having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the federal "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923 et seq., and any amendments or additions to that act or reenactments of that act.

Sec. ~~181.54~~ 5502.64. (A) A county may enter into an agreement with the largest city within the county to establish a metropolitan county criminal justice services agency, if the population of the county exceeds five hundred thousand or the population of the city exceeds two hundred fifty thousand.

(B) A metropolitan county criminal justice services agency shall do all of the following:

(1) Accomplish criminal and juvenile justice systems planning within its services area;

(2) Collect, analyze, and correlate information and data concerning the criminal and juvenile justice systems within its services area;

(3) Cooperate with and provide technical assistance to all criminal and juvenile justice agencies and systems and other appropriate organizations and persons within its services area;

(4) Encourage and assist agencies of the criminal and

juvenile justice systems and other appropriate organizations and persons to solve problems that relate to its duties; 69011
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(5) Administer within its services area any federal criminal justice acts or juvenile justice acts that the ~~office~~ division of criminal justice services pursuant to section 5139.11 of the Revised Code or the department of youth services administers within the state; 69013
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(6) Implement the comprehensive plans for its services area; 69018

(7) Monitor or evaluate, within its services area, the performance of the criminal and juvenile justice systems projects and programs that are financed in whole or in part by funds granted through it; 69019
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(8) Apply for, allocate, and disburse grants that are made available pursuant to any federal criminal justice acts, or pursuant to any other federal, state, or private sources for the purpose of improving the criminal and juvenile justice systems; 69023
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(9) Contract with federal, state, and local agencies, foundations, corporations, and other businesses or persons to carry out the duties of the agency. 69027
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Sec. ~~181.55~~ 5502.65. (A)(1) When funds are available for criminal justice purposes pursuant to section ~~181.54~~ 5502.64 of the Revised Code, the ~~office~~ division of criminal justice services shall provide funds to metropolitan county criminal justice services agencies for the purpose of developing, coordinating, evaluating, and implementing comprehensive plans within their respective counties. The ~~office~~ division of criminal justice services shall provide funds to an agency only if it complies with the conditions of division (B) of this section. 69030
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(2) When funds are available for juvenile justice purposes pursuant to section ~~181.54~~ 5502.64 of the Revised Code, the 69039
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department of youth services shall provide funds to metropolitan 69041
county criminal justice services agencies for the purpose of 69042
developing, coordinating, evaluating, and implementing 69043
comprehensive plans within their respective counties. The 69044
department shall provide funds to an agency only if it complies 69045
with the conditions of division (B) of this section. 69046

(B) A metropolitan county criminal justice services agency 69047
shall do all of the following: 69048

(1) Submit, in a form that is acceptable to the ~~office~~ 69049
division of criminal justice services or the department of youth 69050
services pursuant to section 5139.01 of the Revised Code, a 69051
comprehensive plan for the county; 69052

(2) Establish a metropolitan county criminal justice services 69053
supervisory board whose members shall include a majority of the 69054
local elected officials in the county and representatives from law 69055
enforcement agencies, courts, prosecuting authorities, public 69056
defender agencies, rehabilitation and correction agencies, 69057
community organizations, juvenile justice services agencies, 69058
professionals, and private citizens in the county, and that shall 69059
have the authority set forth in division (C) of this section; 69060

(3) Organize in the manner provided in sections 167.01 to 69061
167.03, 302.21 to 302.24, or 713.21 to 713.27 of the Revised Code, 69062
unless the board created pursuant to division (B)(2) of this 69063
section organizes pursuant to these sections. 69064

(C) A metropolitan county criminal justice services 69065
supervisory board shall do all of the following: 69066

(1) Exercise leadership in improving the quality of the 69067
criminal and juvenile justice systems in the county; 69068

(2) Review, approve, and maintain general oversight of the 69069
comprehensive plans for the county and the implementation of the 69070
plans; 69071

(3) Review and comment on the overall needs and 69072
accomplishments of the criminal and juvenile justice systems in 69073
the county; 69074

(4) Establish, as required to comply with this division, task 69075
forces, ad hoc committees, and other committees, whose members 69076
shall be appointed by the chairperson of the board; 69077

(5) Establish any rules that the board considers necessary 69078
and that are consistent with the federal criminal justice acts and 69079
section ~~181.52~~ 5502.62 of the Revised Code. 69080

Sec. ~~181.56~~ 5502.66. (A) In counties in which a metropolitan 69081
county criminal justice services agency does not exist, the ~~office~~ 69082
division of criminal justice services shall discharge the ~~office's~~ 69083
division's duties that the ~~governor~~ director of public safety 69084
requires it to administer by establishing administrative planning 69085
districts for criminal justice programs. An administrative 69086
planning district shall contain a group of contiguous counties in 69087
which no county has a metropolitan county criminal justice 69088
services agency. 69089

(B) In counties in which a metropolitan county criminal 69090
justice services agency does not exist, the department of youth 69091
services shall discharge pursuant to section 5139.11 of the 69092
Revised Code the department's duty by establishing administrative 69093
planning districts for juvenile justice programs. 69094

(C) All administrative planning districts shall contain a 69095
group of contiguous counties in which no county has a metropolitan 69096
county criminal justice services agency. 69097

(D) Any county or any combination of contiguous counties 69098
within an administrative planning district may form a criminal 69099
justice coordinating council or a juvenile justice coordinating 69100
council for its respective programs, if the county or the group of 69101

counties has a total population in excess of two hundred fifty thousand. The council shall comply with the conditions set forth in divisions (B) and (C) of section ~~181.55~~ 5502.65 of the Revised Code, and exercise within its jurisdiction the powers and duties set forth in division (B) of section ~~181.54~~ 5502.64 of the Revised Code.

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Sec. 5531.10. (A) As used in this chapter:

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(1) "Bond proceedings" means the resolution, order, trust agreement, indenture, lease, lease-purchase agreements, and other agreements, amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing or providing for the terms and conditions applicable to, or providing for the security or liquidity of, obligations issued pursuant to this section, and the provisions contained in such obligations.

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(2) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the state on obligations.

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(3) "Bond service fund" means the applicable fund and accounts therein created for and pledged to the payment of bond service charges, which may be, or may be part of, the state infrastructure bank revenue bond service fund created by division (R) of this section including all moneys and investments, and earnings from investments, credited and to be credited thereto.

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(4) "Issuing authority" means the treasurer of state, or the officer who by law performs the functions of the treasurer of state.

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(5) "Obligations" means bonds, notes, or other evidence of obligation including interest coupons pertaining thereto, issued pursuant to this section.

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(6) "Pledged receipts" means moneys accruing to the state 69132
from the lease, lease-purchase, sale, or other disposition, or 69133
use, of qualified projects, and from the repayment, including 69134
interest, of loans made from proceeds received from the sale of 69135
obligations; accrued interest received from the sale of 69136
obligations; income from the investment of the special funds; any 69137
gifts, grants, donations, and pledges, and receipts therefrom, 69138
available for the payment of bond service charges; and any amounts 69139
in the state infrastructure bank pledged to the payment of such 69140
charges. If the amounts in the state infrastructure bank are 69141
insufficient for the payment of such charges, "pledged receipts" 69142
also means moneys that are apportioned by the United States 69143
secretary of transportation under United States Code, Title XXIII, 69144
as amended, or any successor legislation, or under any other 69145
federal law relating to aid for highways, and that are to be 69146
received as a grant by the state, to the extent the state is not 69147
prohibited by state or federal law from using such moneys and the 69148
moneys are pledged to the payment of such bond service charges. 69149

(7) "Special funds" or "funds" means, except where the 69150
context does not permit, the bond service fund, and any other 69151
funds, including reserve funds, created under the bond 69152
proceedings, and the state infrastructure bank revenue bond 69153
service fund created by division (R) of this section to the extent 69154
provided in the bond proceedings, including all moneys and 69155
investments, and earnings from investment, credited and to be 69156
credited thereto. 69157

(8) "State infrastructure project" means any public 69158
transportation project undertaken by the state, including, but not 69159
limited to, all components of any such project, as described in 69160
division (D) of section ~~5131.09~~ 5531.09 of the Revised Code. 69161

(9) "District obligations" means bonds, notes, or other 69162
evidence of obligation including interest coupons pertaining 69163

thereto, issued to finance a qualified project by a transportation 69164
improvement district created pursuant to section 5540.02 of the 69165
Revised Code, of which the principal, including mandatory sinking 69166
fund requirements for retirement of such obligations, and interest 69167
and redemption premium, if any, are payable by the department of 69168
transportation. 69169

(B) The issuing authority, after giving written notice to the 69170
director of budget and management and upon the certification by 69171
the director of transportation to the issuing authority of the 69172
amount of moneys or additional moneys needed either for state 69173
infrastructure projects or to provide financial assistance for any 69174
of the purposes for which the state infrastructure bank may be 69175
used under section 5531.09 of the Revised Code, or needed for 69176
capitalized interest, funding reserves, and paying costs and 69177
expenses incurred in connection with the issuance, carrying, 69178
securing, paying, redeeming, or retirement of the obligations or 69179
any obligations refunded thereby, including payment of costs and 69180
expenses relating to letters of credit, lines of credit, 69181
insurance, put agreements, standby purchase agreements, indexing, 69182
marketing, remarketing and administrative arrangements, interest 69183
swap or hedging agreements, and any other credit enhancement, 69184
liquidity, remarketing, renewal, or refunding arrangements, all of 69185
which are authorized by this section, shall issue obligations of 69186
the state under this section in the required amount. The proceeds 69187
of such obligations, except for the portion to be deposited in 69188
special funds, including reserve funds, as may be provided in the 69189
bond proceedings, shall as provided in the bond proceedings be 69190
credited to the infrastructure bank obligations fund of the state 69191
infrastructure bank created by section 5531.09 of the Revised Code 69192
and disbursed as provided in the bond proceedings for such 69193
obligations. The issuing authority may appoint trustees, paying 69194
agents, transfer agents, and authenticating agents, and may retain 69195

the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in the issuing authority's judgment to carry out this section. The costs of such services are payable from funds of the state infrastructure bank.

(C) Except as otherwise provided in this division, the holders or owners of such obligations shall have no right to have moneys raised by taxation by the state of Ohio obligated or pledged, and moneys so raised shall not be obligated or pledged, for the payment of bond service charges. The municipal corporations and counties may pledge and obligate moneys received pursuant to sections 4501.04, 5709.42, 5709.79, 5735.23, 5735.27, and 5735.291 of the Revised Code to the payment of amounts payable by those municipal corporations and counties to the state infrastructure bank pursuant to section 5531.09 of the Revised Code, and the bond proceedings for obligations may provide that such payments shall constitute pledged receipts, provided such moneys are obligated, pledged, and paid only with respect to obligations issued exclusively for public transportation projects. The right of such holders and owners to the payment of bond service charges is limited to all or that portion of the pledged receipts and those special funds pledged thereto pursuant to the bond proceedings for such obligations in accordance with this section, and each such obligation shall bear on its face a statement to that effect.

(D) Obligations shall be authorized by order of the issuing authority and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner or agency for determining the principal maturity or maturities, not exceeding twenty-five years from the

date of issuance, the interest rate or rates or the maximum 69228
interest rate, the date of the obligations and the dates of 69229
payment of interest thereon, their denomination, and the 69230
establishment within or without the state of a place or places of 69231
payment of bond service charges. Sections 9.98 to 9.983 of the 69232
Revised Code are applicable to obligations issued under this 69233
section. The purpose of such obligations may be stated in the bond 69234
proceedings in terms describing the general purpose or purposes to 69235
be served. The bond proceedings also shall provide, subject to the 69236
provisions of any other applicable bond proceedings, for the 69237
pledge of all, or such part as the issuing authority may 69238
determine, of the pledged receipts and the applicable special fund 69239
or funds to the payment of bond service charges, which pledges may 69240
be made either prior or subordinate to other expenses, claims, or 69241
payments, and may be made to secure the obligations on a parity 69242
with obligations theretofore or thereafter issued, if and to the 69243
extent provided in the bond proceedings. The pledged receipts and 69244
special funds so pledged and thereafter received by the state 69245
immediately are subject to the lien of such pledge without any 69246
physical delivery thereof or further act, and the lien of any such 69247
pledges is valid and binding against all parties having claims of 69248
any kind against the state or any governmental agency of the 69249
state, irrespective of whether such parties have notice thereof, 69250
and shall create a perfected security interest for all purposes of 69251
Chapter 1309. of the Revised Code, without the necessity for 69252
separation or delivery of funds or for the filing or recording of 69253
the bond proceedings by which such pledge is created or any 69254
certificate, statement, or other document with respect thereto; 69255
and the pledge of such pledged receipts and special funds is 69256
effective and the money therefrom and thereof may be applied to 69257
the purposes for which pledged without necessity for any act of 69258
appropriation. Every pledge, and every covenant and agreement made 69259
with respect thereto, made in the bond proceedings may therein be 69260

extended to the benefit of the owners and holders of obligations 69261
authorized by this section, and to any trustee therefor, for the 69262
further security of the payment of the bond service charges. 69263

(E) The bond proceedings may contain additional provisions as 69264
to: 69265

(1) The redemption of obligations prior to maturity at the 69266
option of the issuing authority at such price or prices and under 69267
such terms and conditions as are provided in the bond proceedings; 69268

(2) Other terms of the obligations; 69269

(3) Limitations on the issuance of additional obligations; 69270

(4) The terms of any trust agreement or indenture securing 69271
the obligations or under which the same may be issued; 69272

(5) The deposit, investment, and application of special 69273
funds, and the safeguarding of moneys on hand or on deposit, 69274
without regard to Chapter 131. or 135. of the Revised Code, but 69275
subject to any special provisions of this section with respect to 69276
particular funds or moneys, provided that any bank or trust 69277
company which acts as depository of any moneys in the special 69278
funds may furnish such indemnifying bonds or may pledge such 69279
securities as required by the issuing authority; 69280

(6) Any or every provision of the bond proceedings being 69281
binding upon such officer, board, commission, authority, agency, 69282
department, or other person or body as may from time to time have 69283
the authority under law to take such actions as may be necessary 69284
to perform all or any part of the duty required by such provision; 69285

(7) Any provision that may be made in a trust agreement or 69286
indenture; 69287

(8) Any other or additional agreements with the holders of 69288
the obligations, or the trustee therefor, relating to the 69289
obligations or the security therefor, including the assignment of 69290

mortgages or other security relating to financial assistance for 69291
qualified projects under section 5531.09 of the Revised Code. 69292

(F) The obligations may have the great seal of the state or a 69293
facsimile thereof affixed thereto or printed thereon. The 69294
obligations and any coupons pertaining to obligations shall be 69295
signed or bear the facsimile signature of the issuing authority. 69296
Any obligations or coupons may be executed by the person who, on 69297
the date of execution, is the proper issuing authority although on 69298
the date of such bonds or coupons such person was not the issuing 69299
authority. In case the issuing authority whose signature or a 69300
facsimile of whose signature appears on any such obligation or 69301
coupon ceases to be the issuing authority before delivery thereof, 69302
such signature or facsimile nevertheless is valid and sufficient 69303
for all purposes as if the former issuing authority had remained 69304
the issuing authority until such delivery; and in case the seal to 69305
be affixed to obligations has been changed after a facsimile of 69306
the seal has been imprinted on such obligations, such facsimile 69307
seal shall continue to be sufficient as to such obligations and 69308
obligations issued in substitution or exchange therefor. 69309

(G) All obligations are negotiable instruments and securities 69310
under Chapter 1308. of the Revised Code, subject to the provisions 69311
of the bond proceedings as to registration. The obligations may be 69312
issued in coupon or in registered form, or both, as the issuing 69313
authority determines. Provision may be made for the registration 69314
of any obligations with coupons attached thereto as to principal 69315
alone or as to both principal and interest, their exchange for 69316
obligations so registered, and for the conversion or reconversion 69317
into obligations with coupons attached thereto of any obligations 69318
registered as to both principal and interest, and for reasonable 69319
charges for such registration, exchange, conversion, and 69320
reconversion. 69321

(H) Obligations may be sold at public sale or at private 69322

sale, as determined in the bond proceedings. 69323

(I) Pending preparation of definitive obligations, the 69324
issuing authority may issue interim receipts or certificates which 69325
shall be exchanged for such definitive obligations. 69326

(J) In the discretion of the issuing authority, obligations 69327
may be secured additionally by a trust agreement or indenture 69328
between the issuing authority and a corporate trustee which may be 69329
any trust company or bank having its principal place of business 69330
within the state. Any such agreement or indenture may contain the 69331
order authorizing the issuance of the obligations, any provisions 69332
that may be contained in any bond proceedings, and other 69333
provisions which are customary or appropriate in an agreement or 69334
indenture of such type, including, but not limited to: 69335

(1) Maintenance of each pledge, trust agreement, indenture, 69336
or other instrument comprising part of the bond proceedings until 69337
the state has fully paid the bond service charges on the 69338
obligations secured thereby, or provision therefor has been made; 69339

(2) In the event of default in any payments required to be 69340
made by the bond proceedings, or any other agreement of the 69341
issuing authority made as a part of the contract under which the 69342
obligations were issued, enforcement of such payments or agreement 69343
by mandamus, the appointment of a receiver, suit in equity, action 69344
at law, or any combination of the foregoing; 69345

(3) The rights and remedies of the holders of obligations and 69346
of the trustee, and provisions for protecting and enforcing them, 69347
including limitations on the rights of individual holders of 69348
obligations; 69349

(4) The replacement of any obligations that become mutilated 69350
or are destroyed, lost, or stolen; 69351

(5) Such other provisions as the trustee and the issuing 69352

authority agree upon, including limitations, conditions, or 69353
qualifications relating to any of the foregoing. 69354

(K) Any holder of obligations or a trustee under the bond 69355
proceedings, except to the extent that the holder's or trustee's 69356
rights are restricted by the bond proceedings, may by any suitable 69357
form of legal proceedings, protect and enforce any rights under 69358
the laws of this state or granted by such bond proceedings. Such 69359
rights include the right to compel the performance of all duties 69360
of the issuing authority and the director of transportation 69361
required by the bond proceedings or sections 5531.09 and 5531.10 69362
of the Revised Code; to enjoin unlawful activities; and in the 69363
event of default with respect to the payment of any bond service 69364
charges on any obligations or in the performance of any covenant 69365
or agreement on the part of the issuing authority or the director 69366
of transportation in the bond proceedings, to apply to a court 69367
having jurisdiction of the cause to appoint a receiver to receive 69368
and administer the pledged receipts and special funds, other than 69369
those in the custody of the treasurer of state, which are pledged 69370
to the payment of the bond service charges on such obligations or 69371
which are the subject of the covenant or agreement, with full 69372
power to pay, and to provide for payment of bond service charges 69373
on, such obligations, and with such powers, subject to the 69374
direction of the court, as are accorded receivers in general 69375
equity cases, excluding any power to pledge additional revenues or 69376
receipts or other income or moneys of the state or local 69377
governmental entities, or agencies thereof, to the payment of such 69378
principal and interest and excluding the power to take possession 69379
of, mortgage, or cause the sale or otherwise dispose of any 69380
project facilities. 69381

Each duty of the issuing authority and the issuing 69382
authority's officers and employees, and of each state or local 69383
governmental agency and its officers, members, or employees, 69384

undertaken pursuant to the bond proceedings or any loan, loan
guarantee, lease, lease-purchase agreement, or other agreement
made under authority of section 5531.09 of the Revised Code, and
in every agreement by or with the issuing authority, is hereby
established as a duty of the issuing authority, and of each such
officer, member, or employee having authority to perform such
duty, specifically enjoined by the law resulting from an office,
trust, or station within the meaning of section 2731.01 of the
Revised Code.

The person who is at the time the issuing authority, or the
issuing authority's officers or employees, are not liable in their
personal capacities on any obligations issued by the issuing
authority or any agreements of or with the issuing authority.

(L) The issuing authority may authorize and issue obligations
for the refunding, including funding and retirement, and advance
refunding with or without payment or redemption prior to maturity,
of any obligations previously issued by the issuing authority or
district obligations. Such refunding obligations may be issued in
amounts sufficient for payment of the principal amount of the
prior obligations or district obligations, any redemption premiums
thereon, principal maturities of any such obligations or district
obligations maturing prior to the redemption of the remaining
obligations or district obligations on a parity therewith,
interest accrued or to accrue to the maturity dates or dates of
redemption of such obligations or district obligations, and any
expenses incurred or to be incurred in connection with such
issuance and such refunding, funding, and retirement. Subject to
the bond proceedings therefor, the portion of proceeds of the sale
of refunding obligations issued under this division to be applied
to bond service charges on the prior obligations or district
obligations shall be credited to an appropriate account held by
the trustee for such prior or new obligations or to the

appropriate account in the bond service fund for such obligations 69417
or district obligations. Obligations authorized under this 69418
division shall be deemed to be issued for those purposes for which 69419
such prior obligations or district obligations were issued and are 69420
subject to the provisions of this section pertaining to other 69421
obligations, except as otherwise provided in this section. The 69422
last maturity of obligations authorized under this division shall 69423
not be later than twenty-five years from the date of issuance of 69424
the original securities issued for the original purpose. 69425

(M) The authority to issue obligations under this section 69426
includes authority to issue obligations in the form of bond 69427
anticipation notes and to renew the same from time to time by the 69428
issuance of new notes. The holders of such notes or interest 69429
coupons pertaining thereto shall have a right to be paid solely 69430
from the pledged receipts and special funds that may be pledged to 69431
the payment of the bonds anticipated, or from the proceeds of such 69432
bonds or renewal notes, or both, as the issuing authority provides 69433
in the order authorizing such notes. Such notes may be 69434
additionally secured by covenants of the issuing authority to the 69435
effect that the issuing authority and the state will do such or 69436
all things necessary for the issuance of such bonds or renewal 69437
notes in the appropriate amount, and apply the proceeds thereof to 69438
the extent necessary, to make full payment of the principal of and 69439
interest on such notes at the time or times contemplated, as 69440
provided in such order. For such purpose, the issuing authority 69441
may issue bonds or renewal notes in such principal amount and upon 69442
such terms as may be necessary to provide funds to pay when 69443
required the principal of and interest on such notes, 69444
notwithstanding any limitations prescribed by or for purposes of 69445
this section. Subject to this division, all provisions for and 69446
references to obligations in this section are applicable to notes 69447
authorized under this division. 69448

The issuing authority in the bond proceedings authorizing the 69449
issuance of bond anticipation notes shall set forth for such bonds 69450
an estimated interest rate and a schedule of principal payments 69451
for such bonds and the annual maturity dates thereof. 69452

(N) Obligations issued under this section are lawful 69453
investments for banks, societies for savings, savings and loan 69454
associations, deposit guarantee associations, trust companies, 69455
trustees, fiduciaries, insurance companies, including domestic for 69456
life and domestic not for life, trustees or other officers having 69457
charge of sinking and bond retirement or other special funds of 69458
political subdivisions and taxing districts of this state, the 69459
commissioners of the sinking fund of the state, the administrator 69460
of workers' compensation, the state teachers retirement system, 69461
the public employees retirement system, the school employees 69462
retirement system, and the Ohio police and fire pension fund, 69463
notwithstanding any other provisions of the Revised Code or rules 69464
adopted pursuant thereto by any agency of the state with respect 69465
to investments by them, and are also acceptable as security for 69466
the deposit of public moneys. 69467

(O) Unless otherwise provided in any applicable bond 69468
proceedings, moneys to the credit of or in the special funds 69469
established by or pursuant to this section may be invested by or 69470
on behalf of the issuing authority only in notes, bonds, or other 69471
obligations of the United States, or of any agency or 69472
instrumentality of the United States, obligations guaranteed as to 69473
principal and interest by the United States, obligations of this 69474
state or any political subdivision of this state, and certificates 69475
of deposit of any national bank located in this state and any 69476
bank, as defined in section 1101.01 of the Revised Code, subject 69477
to inspection by the superintendent of financial institutions. If 69478
the law or the instrument creating a trust pursuant to division 69479
(J) of this section expressly permits investment in direct 69480

obligations of the United States or an agency of the United States, unless expressly prohibited by the instrument, such moneys also may be invested in no-front-end-load money market mutual funds consisting exclusively of obligations of the United States or an agency of the United States and in repurchase agreements, including those issued by the fiduciary itself, secured by obligations of the United States or an agency of the United States; and in collective investment funds as defined in division (A) of section 1111.01 of the Revised Code and consisting exclusively of any such securities. The income from such investments shall be credited to such funds as the issuing authority determines, and such investments may be sold at such times as the issuing authority determines or authorizes.

(P) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges on obligations pertinent to such accounts and bond service fund and for other accounts therein within the general purposes of such fund. Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the several special funds established pursuant to this section shall be disbursed on the order of the treasurer of state, provided that no such order is required for the payment from the bond service fund when due of bond service charges on obligations.

(Q)(1) The issuing authority may pledge all, or such portion as the issuing authority determines, of the pledged receipts to the payment of bond service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to pledged receipts as authorized by this chapter, which provisions are controlling notwithstanding any other provisions of law pertaining thereto.

(2) An action taken under division (Q)(2) of this section 69513
does not limit the generality of division (Q)(1) of this section, 69514
and is subject to division (C) of this section and, if and to the 69515
extent otherwise applicable, Section 13 of Article VIII, Ohio 69516
Constitution. The bond proceedings may contain a covenant that, in 69517
the event the pledged receipts primarily pledged and required to 69518
be used for the payment of bond service charges on obligations 69519
issued under this section, and for the establishment and 69520
maintenance of any reserves, as provided in the bond proceedings, 69521
are insufficient to make any such payment in full when due, or to 69522
maintain any such reserve, the director of transportation shall so 69523
notify the governor, and shall determine to what extent, if any, 69524
the payment may be made or moneys may be restored to the reserves 69525
from lawfully available moneys previously appropriated for that 69526
purpose to the department of transportation. The covenant also may 69527
provide that if the payments are not made or the moneys are not 69528
immediately and fully restored to the reserves from such moneys, 69529
the director shall promptly submit to the governor and to the 69530
director of budget and management a written request for either or 69531
both of the following: 69532

(a) That the next biennial budget submitted by the governor 69533
to the general assembly include an amount to be appropriated from 69534
lawfully available moneys to the department for the purpose of and 69535
sufficient for the payment in full of bond service charges 69536
previously due and for the full replenishment of the reserves; 69537

(b) That the general assembly be requested to increase 69538
appropriations from lawfully available moneys for the department 69539
in the current biennium sufficient for the purpose of and for the 69540
payment in full of bond service charges previously due and to come 69541
due in the biennium and for the full replenishment of the 69542
reserves. 69543

The director of transportation shall include with such 69544

requests a recommendation that the payment of the bond service 69545
charges and the replenishment of the reserves be made in the 69546
interest of maximizing the benefits of the state infrastructure 69547
bank. Any such covenant shall not obligate or purport to obligate 69548
the state to pay the bond service charges on such bonds or notes 69549
or to deposit moneys in a reserve established for such payments 69550
other than from moneys that may be lawfully available and 69551
appropriated for that purpose during the then-current biennium. 69552

(R) There is hereby created the state infrastructure bank 69553
revenue bond service fund, which shall be in the custody of the 69554
treasurer of state but shall not be a part of the state treasury. 69555
All moneys received by or on account of the issuing authority or 69556
state agencies and required by the applicable bond proceedings, 69557
consistent with this section, to be deposited, transferred, or 69558
credited to the bond service fund, and all other moneys 69559
transferred or allocated to or received for the purposes of the 69560
fund, shall be deposited and credited to such fund and to any 69561
separate accounts therein, subject to applicable provisions of the 69562
bond proceedings, but without necessity for any act of 69563
appropriation. The state infrastructure bank revenue bond service 69564
fund is a trust fund and is hereby pledged to the payment of bond 69565
service charges to the extent provided in the applicable bond 69566
proceedings, and payment thereof from such fund shall be made or 69567
provided for by the treasurer of state in accordance with such 69568
bond proceedings without necessity for any act of appropriation. 69569

(S) The obligations issued pursuant to this section, the 69570
transfer thereof, and the income therefrom, including any profit 69571
made on the sale thereof, shall at all times be free from taxation 69572
within this state. 69573

Sec. 5540.01. As used in this chapter: 69574

(A) "Transportation improvement district" or "district" means 69575

a transportation improvement district designated pursuant to 69576
section 5540.02 of the Revised Code. 69577

(B) "Governmental agency" means a department, division, or 69578
other unit of state government; a county, township, or municipal 69579
corporation or other political subdivision; a regional transit 69580
authority or regional transit commission created pursuant to 69581
Chapter 306. of the Revised Code; a port authority created 69582
pursuant to Chapter 4582. of the Revised Code; and the United 69583
States or any agency thereof. 69584

(C) "Project" means a street, highway, or other 69585
transportation project constructed or improved under this chapter 69586
and includes all bridges, tunnels, overpasses, underpasses, 69587
interchanges, approaches, those portions of connecting streets or 69588
highways that serve interchanges and are determined by the 69589
district to be necessary for the safe merging of traffic between 69590
the project and those streets or highways, service facilities, and 69591
administration, storage, and other buildings, property, and 69592
facilities, that the district considers necessary for the 69593
operation of the project, together with all property and rights 69594
that must be acquired by the district for the construction, 69595
maintenance, or operation of the project. 69596

(D) "Cost," as applied to the construction of a project, 69597
includes the cost of construction, including bridges over or under 69598
existing highways and railroads, acquisition of all property 69599
acquired by the district for such construction, demolishing or 69600
removing any buildings or structures on land so acquired, 69601
including the cost of acquiring any lands to which such buildings 69602
or structures may be moved, site clearance, improvement, and 69603
preparation, diverting streets or highways, interchanges with 69604
streets or highways, access roads to private property, including 69605
the cost of land or easements therefor, all machinery, 69606
furnishings, and equipment, communications facilities, financing 69607

expenses, interest prior to and during construction and for one 69608
year after completion of construction, traffic estimates, 69609
indemnity and surety bonds and premiums on insurance, and 69610
guarantees, engineering, feasibility studies, and legal expenses, 69611
plans, specifications, surveys, estimates of cost and revenues, 69612
other expenses necessary or incidental to determining the 69613
feasibility or practicability of constructing a project, and such 69614
other expense as may be necessary or incident to the construction 69615
of the project and the financing of such construction. Any 69616
obligation or expense incurred by any governmental agency or 69617
person for surveys, borings, preparation of plans and 69618
specifications, and other engineering services, or any other cost 69619
described above, in connection with the construction of a project 69620
may be regarded as part of the cost of the project and reimbursed 69621
from revenues, taxes, or the proceeds of bonds as authorized by 69622
this chapter. 69623

(E) "Owner" includes any person having any title or interest 69624
in any property authorized to be acquired by a district under this 69625
chapter. 69626

(F) "Revenues" means all moneys received by a district with 69627
respect to the lease, sublease, or sale, including installment 69628
sale, conditional sale, or sale under a lease-purchase agreement, 69629
of a project, all moneys received by a district under an agreement 69630
pursuant to Section 515.03 of H.B. 66 of the 126th General 69631
Assembly, any gift or grant received with respect to a project, 69632
tolls, special assessments levied by the district, proceeds of 69633
bonds to the extent the use thereof for payment of principal or of 69634
premium, if any, or interest on the bonds is authorized by the 69635
district, proceeds from any insurance, condemnation, or guaranty 69636
pertaining to a project or property mortgaged to secure bonds or 69637
pertaining to the financing of a project, and income and profit 69638
from the investment of the proceeds of bonds or of any revenues. 69639

(G) "Street or highway" has the same meaning as in section 69640
4511.01 of the Revised Code. 69641

(H) "Financing expenses" means all costs and expenses 69642
relating to the authorization, issuance, sale, delivery, 69643
authentication, deposit, custody, clearing, registration, 69644
transfer, exchange, fractionalization, replacement, payment, and 69645
servicing of bonds including, without limitation, costs and 69646
expenses for or relating to publication and printing, postage, 69647
delivery, preliminary and final official statements, offering 69648
circulars, and informational statements, travel and 69649
transportation, underwriters, placement agents, investment 69650
bankers, paying agents, registrars, authenticating agents, 69651
remarketing agents, custodians, clearing agencies or corporations, 69652
securities depositories, financial advisory services, 69653
certifications, audits, federal or state regulatory agencies, 69654
accounting and computation services, legal services and obtaining 69655
approving legal opinions and other legal opinions, credit ratings, 69656
redemption premiums, and credit enhancement facilities. 69657

(I) "Bond proceedings" means the resolutions, trust 69658
agreements, certifications, notices, sale proceedings, leases, 69659
lease-purchase agreements, assignments, credit enhancement 69660
facility agreements, and other agreements, instruments, and 69661
documents, as amended and supplemented, or any one or more of 69662
combination thereof, authorizing, or authorizing or providing for 69663
the terms and conditions applicable to, or providing for the 69664
security or sale or award or liquidity of, bonds, and includes the 69665
provisions set forth or incorporated in those bonds and bond 69666
proceedings. 69667

(J) "Bond service charges" means principal, including any 69668
mandatory sinking fund or mandatory redemption requirements for 69669
retirement of bonds, and interest and any redemption premium 69670
payable on bonds, as those payments come due and are payable to 69671

the bondholder or to a person making payment under a credit 69672
enhancement facility of those bond service charges to a 69673
bondholder. 69674

(K) "Bond service fund" means the applicable fund created by 69675
the bond proceedings for and pledged to the payment of bond 69676
service charges on bonds provided for by those proceedings, 69677
including all moneys and investments, and earnings from 69678
investments, credited and to be credited to that fund as provided 69679
in the bond proceedings. 69680

(L) "Bonds" means bonds, notes, including notes anticipating 69681
bonds or other notes, commercial paper, certificates of 69682
participation, or other evidences of obligation, including any 69683
interest coupons pertaining thereto, issued pursuant to this 69684
chapter. 69685

(M) "Net revenues" means revenues lawfully available to pay 69686
both current operating expenses of a district and bond service 69687
charges in any fiscal year or other specified period, less current 69688
operating expenses of the district and any amount necessary to 69689
maintain a working capital reserve for that period. 69690

(N) "Pledged revenues" means net revenues, moneys and 69691
investments, and earnings on those investments, in the applicable 69692
bond service fund and any other special funds, and the proceeds of 69693
any bonds issued for the purpose of refunding prior bonds, all as 69694
lawfully available and by resolution of the district committed for 69695
application as pledged revenues to the payment of bond service 69696
charges on particular issues of bonds. 69697

(O) "Special funds" means the applicable bond service fund 69698
and any accounts and subaccounts in that fund, any other funds or 69699
accounts permitted by and established under, and identified as a 69700
special fund or special account in, the bond proceedings, 69701
including any special fund or account established for purposes of 69702

rebate or other requirements under federal income tax laws. 69703

(P) "Credit enhancement facilities" means letters of credit, 69704
lines of credit, standby, contingent, or firm securities purchase 69705
agreements, insurance, or surety arrangements, guarantees, and 69706
other arrangements that provide for direct or contingent payment 69707
of bond service charges, for security or additional security in 69708
the event of nonpayment or default in respect of bonds, or for 69709
making payment of bond service charges and at the option and on 69710
demand of bondholders or at the option of the district or upon 69711
certain conditions occurring under put or similar arrangements, or 69712
for otherwise supporting the credit or liquidity of the bonds, and 69713
includes credit, reimbursement, marketing, remarketing, indexing, 69714
carrying, interest rate hedge, and subrogation agreements, and 69715
other agreements and arrangements for payment and reimbursement of 69716
the person providing the credit enhancement facility and the 69717
security for that payment and reimbursement. 69718

(Q) "Refund" means to fund and retire outstanding bonds, 69719
including advance refunding with or without payment or redemption 69720
prior to stated maturity. 69721

(R) "Property" includes interests in property. 69722

(S) "Administrative agent," "agent," "commercial paper," 69723
"floating rate interest structure," "indexing agent," "interest 69724
rate hedge," "interest rate period," "put arrangement," and 69725
"remarketing agent" have the same meanings as in section 9.98 of 69726
the Revised Code. 69727

(T) "Outstanding" as applied to bonds means outstanding in 69728
accordance with the terms of the bonds and the applicable bond 69729
proceedings. 69730

(U) "Interstate system" has the same meaning as in section 69731
5516.01 of the Revised Code. 69732

Sec. 5540.09. (A) The bonds do not constitute a debt, or a 69733
pledge of the faith and credit, of the state or of any political 69734
subdivision of the state. Bond service charges on outstanding 69735
bonds are payable solely from the pledged revenues pledged for 69736
their payment as authorized by this chapter and as provided in the 69737
bond proceedings. All bonds shall contain on their face a 69738
statement to that effect. 69739

(B) All expenses incurred in carrying out this chapter shall 69740
be payable solely from revenues provided under this chapter. ~~This~~ 69741
Except as provided in Section 515.03 of H.B. 66 of the 126th 69742
General Assembly, this chapter does not authorize the board of 69743
trustees of a district to incur indebtedness or liability on 69744
behalf of or payable by the state or any political subdivision of 69745
the state. 69746

Sec. 5549.01. The board of county commissioners may purchase 69747
such machinery, tools, or other equipment, including special 69748
wearing apparel, for the construction, improvement, maintenance, 69749
or repair of the highways, bridges, and culverts under its 69750
jurisdiction as it deems necessary. The board may also purchase, 69751
hire, or lease automobiles, motorcycles, or other conveyances and 69752
maintain them for the use of the county engineer and ~~his~~ the 69753
engineer's assistants when on official business. All such 69754
machinery, tools, and equipment, including special wearing 69755
apparel, and conveyances belonging to the county shall be under 69756
the care and custody of the engineer, and shall be plainly and 69757
conspicuously marked as the property of the county. 69758

The engineer ~~shall annually, on the fifteenth day of~~ 69759
~~November, make a written inventory of all such items, indicating~~ 69760
~~each article, stating the value thereof, and the estimated cost of~~ 69761
~~all necessary repairs thereto, and deliver such inventory to the~~ 69762

~~board, which shall cause it to be placed on file. At the same time~~ 69763
he shall file with the board ~~his~~ written recommendations as to 69764
what machinery, tools, and equipment, including special wearing 69765
apparel, and conveyances should be purchased for the use of the 69766
county during the ensuing year and the probable cost thereof. 69767

The board shall provide a suitable place for housing and 69768
storing machinery, tools, and equipment, including special wearing 69769
apparel, materials, and conveyances owned by the county, and may 69770
purchase the necessary material and construct, or enter into an 69771
agreement with a railroad company to construct, one switch or spur 69772
track from the right of way of such railroad company to land or 69773
storage house owned by the county. All expenditures authorized by 69774
this section shall be paid out of any available road funds of the 69775
county. 69776

Purchases, hiring, or leasing made by the board pursuant to 69777
this section shall be governed by sections 307.86 to 307.92~~7~~ 69778
~~inclusive~~, of the Revised Code. 69779

Sec. 5552.01. As used in this chapter: 69780

(A) "Metropolitan planning organization" ~~has the same meaning~~ 69781
~~as in division (A)(7) of section 3704.14 of the Revised Code~~ means 69782
a metropolitan planning organization designated under section 9(a) 69783
of the "Federal-Aid Highway Act of 1962," 76 Stat. 1148, 23 U.S.C. 69784
134, as amended. 69785

(B) "Urban township" means a township that has a population 69786
in the unincorporated area of the township of fifteen thousand or 69787
more and that has adopted a limited home rule government under 69788
section 504.02 of the Revised Code. 69789

Sec. 5573.13. The proportion of the compensation, damages, 69790
and costs of any road improvement to be paid by the township shall 69791
be paid out of any road improvement fund available therefor. For 69792

the purpose of providing by taxation a fund for the payment of the township's proportion of the compensation, damages, and costs of constructing, reconstructing, resurfacing, or improving roads under sections 5571.01, 5571.06, 5571.07, 5571.15, 5573.01 to 5573.15, ~~inclusive,~~ and 5575.02 to 5575.09, ~~inclusive,~~ of the Revised Code, and for the purpose of maintaining, repairing, or dragging any public road or part thereof under their jurisdiction, in the manner provided in sections 5571.02 to 5571.05, ~~inclusive,~~ 5571.08, 5571.12, ~~5571.13,~~ and 5575.01 of the Revised Code, the board of trustees may levy, annually, a tax not exceeding three mills upon each dollar of the taxable property of said township. Such levy shall be in addition to all other levies authorized for township purposes, and subject only to the limitation on the combined maximum rate for all taxes now in force. The taxes so authorized shall be placed by the county auditor upon the tax duplicate, against the taxable property of the township, and collected by the county treasurer as other taxes. When collected, such taxes shall be paid to the township clerk of the township from which they are collected, and the money so received shall be under the control of the board for the purposes for which the taxes were levied.

Sec. 5703.052. (A) There is hereby created in the state treasury the tax refund fund, from which refunds shall be paid for taxes illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by Chapter 4301., 4305., 5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 5749., or ~~5753-~~ 5751., and sections 3737.71, 3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the Revised Code. Refunds for fees illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by sections 3734.90 to 3734.9014 of the Revised Code also shall be paid from the fund. However, refunds for taxes levied

under section 5739.101 of the Revised Code shall not be paid from 69825
the tax refund fund, but shall be paid as provided in section 69826
5739.104 of the Revised Code. 69827

(B)(1) Upon certification by the tax commissioner to the 69828
treasurer of state of a tax refund or fee refund, or by the 69829
superintendent of insurance of a domestic or foreign insurance tax 69830
refund, the treasurer of state shall place the amount certified to 69831
the credit of the fund. The certified amount transferred shall be 69832
derived from current receipts of the same tax or the fee from 69833
which the refund arose. If current receipts from the tax or fee 69834
from which the refund arose are inadequate to make the transfer of 69835
the amount so certified, the treasurer of state shall transfer 69836
such certified amount from current receipts of the sales tax 69837
levied by section 5739.02 of the Revised Code. 69838

(2) When the treasurer of state provides for the payment of a 69839
refund of a tax or fee from the current receipts of the sales tax, 69840
and the refund is for a tax or fee that is not levied by the 69841
state, the tax commissioner shall recover the amount of that 69842
refund from the next distribution of that tax or fee that 69843
otherwise would be made to the taxing jurisdiction. If the amount 69844
to be recovered would exceed twenty-five per cent of the next 69845
distribution of that tax or fee, the commissioner may spread the 69846
recovery over more than one future distribution, taking into 69847
account the amount to be recovered and the amount of the 69848
anticipated future distributions. In no event may the commissioner 69849
spread the recovery over a period to exceed twenty-four months. 69850

Sec. 5703.053. As used in this section, "postal service" 69851
means the United States postal service. 69852

An application to the tax commissioner for a tax refund under 69853
section 4307.05, 4307.07, 5727.28, 5727.91, 5728.061, 5735.122, 69854

5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 5743.05, 69855
5743.53, 5745.11, 5749.08, or ~~5753.06~~ 5751.08 of the Revised Code 69856
or division (B) of section 5703.05 of the Revised Code, or a fee 69857
refunded under section 3734.905 of the Revised Code, that is 69858
received after the last day for filing under such section shall be 69859
considered to have been filed in a timely manner if: 69860

(A) The application is delivered by the postal service and 69861
the earliest postal service postmark on the cover in which the 69862
application is enclosed is not later than the last day for filing 69863
the application; 69864

(B) The application is delivered by the postal service, the 69865
only postmark on the cover in which the application is enclosed 69866
was affixed by a private postal meter, the date of that postmark 69867
is not later than the last day for filing the application, and the 69868
application is received within seven days of such last day; or 69869

(C) The application is delivered by the postal service, no 69870
postmark date was affixed to the cover in which the application is 69871
enclosed or the date of the postmark so affixed is not legible, 69872
and the application is received within seven days of the last day 69873
for making the application. 69874

Sec. 5703.057. (A) For the efficient administration of the 69875
taxes and fees administered by the tax commissioner, the 69876
commissioner may require that any person filing a tax document 69877
with the department of taxation provide identifying information, 69878
which may include the person's social security number, federal 69879
employer identification number, or other identification number 69880
requested by the commissioner. A person required by the 69881
commissioner to provide identifying information who has 69882
experienced any change with respect to that information shall 69883
notify the commissioner of the change prior to, or upon, filing 69884
the next tax document requiring such identifying information. 69885

(B) When transmitting or otherwise making use of a tax document that contains a person's social security number, the commissioner shall take all reasonable measures necessary to ensure that the number is not capable of being viewed by the general public, including, when necessary, masking the number so that it is not readily discernible by the general public. 69886
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(C)(1) If the commissioner makes a request for identifying information and the commissioner does not receive valid identifying information within thirty days of making the request, the commissioner may impose a penalty upon the person to whom the request was directed of up to one hundred dollars. If, after the expiration of this thirty day period, the commissioner makes one or more subsequent requests for identifying information and the person to whom the subsequent request is directed fails to provide valid identifying information within thirty days of the commissioner's subsequent request, the commissioner may impose an additional penalty of up to two hundred dollars for each subsequent request not complied with in a timely fashion. 69892
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(2) If a person required by the commissioner to provide identifying information does not notify the commissioner of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, the commissioner may impose a penalty of up to fifty dollars. 69904
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(3) The penalties provided for under divisions (C)(1) and (2) of this section may be billed and assessed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in division (D) of this section and any other penalties that may be imposed by the commissioner by law. 69910
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(D) Section 5703.26 of the Revised Code applies with respect 69916

to false or fraudulent identifying information provided by a 69917
person to the commissioner under this section. 69918

Sec. 5703.47. (A) As used in this section, "federal 69919
short-term rate" means the rate of the average market yield on 69920
outstanding marketable obligations of the United States with 69921
remaining periods to maturity of three years or less, as 69922
determined under section 1274 of the "Internal Revenue Code of 69923
1986," 100 Stat. 2085, 26 U.S.C.A. 1274, for July of the current 69924
year. 69925

(B) On the fifteenth day of October of each year, the tax 69926
commissioner shall determine the federal short-term rate. For 69927
purposes of any section of the Revised Code requiring interest to 69928
be computed at the rate per annum required by this section, the 69929
rate determined by the commissioner under this section, rounded to 69930
the nearest whole number per cent, plus three per cent, shall be 69931
the interest rate per annum used in making the computation for 69932
interest that accrues during the following calendar year. For the 69933
purposes of sections 5719.041 and 5731.23 of the Revised Code, 69934
references to the "federal short-term rate" are references to the 69935
federal short-term rate as determined by the tax commissioner 69936
under this section rounded to the nearest whole number per cent. 69937

(C) Within ten days after the interest rate per annum is 69938
determined under this section, the tax commissioner shall notify 69939
the auditor of each county in writing of that rate of interest. 69940

Sec. 5703.50. As used in sections 5703.50 to 5703.53 of the 69941
Revised Code: 69942

(A) "Tax" includes only those taxes imposed on tangible 69943
personal property listed in accordance with Chapter 5711. of the 69944
Revised Code and taxes imposed under Chapters 5733., 5739., 5741., 69945
~~and~~ 5747., and 5751. of the Revised Code. 69946

(B) "Taxpayer" means a person subject to or potentially subject to a tax including an employer required to deduct and withhold any amount under section 5747.06 of the Revised Code. 69947
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(C) "Audit" means the examination of a taxpayer or the inspection of the books, records, memoranda, or accounts of a taxpayer for the purpose of determining liability for a tax. 69950
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(D) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to section 5711.26, 5711.32, 5733.11, 5739.13, 5741.11, 5741.13, ~~or~~ 5747.13, or 5751.09 of the Revised Code. 69953
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(E) "County auditor" means the auditor of the county in which the tangible personal property subject to a tax is located. 69957
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Sec. 5703.70. (A) On the filing of an application for refund under section 3734.905, 4307.05, 4307.07, 5727.28, 5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 5743.53, ~~or~~ 5749.08, or 5751.08 of the Revised Code, or an application for compensation under section 5739.123 of the Revised Code, if the tax commissioner determines that the amount of the refund or compensation to which the applicant is entitled is less than the amount claimed in the application, the commissioner shall give the applicant written notice by ordinary mail of the amount. The notice shall be sent to the address shown on the application unless the applicant notifies the commissioner of a different address. The applicant shall have sixty days from the date the commissioner mails the notice to provide additional information to the commissioner or request a hearing, or both. 69959
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(B) If the applicant neither requests a hearing nor provides additional information to the tax commissioner within the time prescribed by division (A) of this section, the commissioner shall 69974
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take no further action, and the refund amount or compensation
amount denied becomes final. 69977
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(C)(1) If the applicant requests a hearing within the time 69979
prescribed by division (A) of this section, the tax commissioner 69980
shall assign a time and place for the hearing and notify the 69981
applicant of such time and place, but the commissioner may 69982
continue the hearing from time to time as necessary. After the 69983
hearing, the commissioner may make such adjustments to the refund 69984
or compensation as the commissioner finds proper, and shall issue 69985
a final determination thereon. 69986

(2) If the applicant does not request a hearing, but provides 69987
additional information, within the time prescribed by division (A) 69988
of this section, the commissioner shall review the information, 69989
make such adjustments to the refund or compensation as the 69990
commissioner finds proper, and issue a final determination 69991
thereon. 69992

(3) The commissioner shall serve a copy of the final 69993
determination made under division (C)(1) or (2) of this section on 69994
the applicant in the manner provided in section 5703.37 of the 69995
Revised Code, and the decision is final, subject to appeal under 69996
section 5717.02 of the Revised Code. 69997

(D) The tax commissioner shall certify to the director of 69998
budget and management and treasurer of state for payment from the 69999
tax refund fund created by section 5703.052 of the Revised Code, 70000
the amount of the refund to be refunded under division (B) or (C) 70001
of this section. The commissioner also shall certify to the 70002
director and treasurer of state for payment from the general 70003
revenue fund the amount of compensation to be paid under division 70004
(B) or (C) of this section. 70005

Sec. 5703.80. There is hereby created in the state treasury 70006

the property tax administration fund. All money to the credit of 70007
the fund shall be used to defray the costs incurred by the 70008
department of taxation in administering the taxation of property 70009
and the equalization of real property valuation. 70010

Each fiscal year between the first and fifteenth days of 70011
July, the tax commissioner shall compute the following amounts for 70012
the property in each taxing district in each county, and certify 70013
to the director of budget and management the sum of those amounts 70014
for all taxing districts in all counties: 70015

(A) ~~Three tenths~~ For fiscal year 2006, thirty-three 70016
hundredths of one per cent of the total amount by which taxes 70017
charged against real property on the general tax list of real and 70018
public utility property were reduced under section 319.302 of the 70019
Revised Code for the preceding tax year; 70020

(B) ~~Fifteen hundredths~~ For fiscal year 2007 and thereafter, 70021
thirty-five hundredths of one per cent of the total amount by 70022
which taxes charged against real property on the general tax list 70023
of real and public utility property were reduced under section 70024
319.302 of the Revised Code for the preceding tax year; 70025

(C) For fiscal year 2006, one-half of one per cent of the 70026
total amount of taxes charged and payable against public utility 70027
personal property on the general tax list of real and public 70028
utility property for the preceding tax year and of the total 70029
amount of taxes charged and payable against tangible personal 70030
property on the general tax list of personal property of the 70031
preceding tax year and for which returns were filed with the tax 70032
commissioner under section 5711.13 of the Revised Code; 70033

~~(C) Seventy five~~ (D) For fiscal year 2007, fifty-six 70034
hundredths of one per cent of the total amount of taxes charged 70035
and payable against public utility personal property on the 70036
general tax list of real and public utility property for the 70037

preceding tax year and of the total amount of taxes charged and 70038
payable against tangible personal property on the general tax list 70039
of personal property of the preceding tax year and for which 70040
returns were filed with the tax commissioner under section 5711.13 70041
of the Revised Code; 70042

(E) For fiscal year 2008 and thereafter, six-tenths of one 70043
per cent of the total amount of taxes charged and payable against 70044
public utility personal property on the general tax list of real 70045
and public utility property for the preceding tax year and of the 70046
total amount of taxes charged and payable against tangible 70047
personal property on the general tax list of personal property of 70048
the preceding tax year and for which returns were filed with the 70049
tax commissioner under section 5711.13 of the Revised Code. 70050

After receiving the tax commissioner's certification, the 70051
director of budget and management shall transfer from the general 70052
revenue fund to the property tax administration fund one-fourth of 70053
the amount certified on or before each of the following days: the 70054
first days of August, November, February, and May. 70055

On or before the thirtieth day of June of the fiscal year, 70056
the tax commissioner shall certify to the director of budget and 70057
management the sum of the amounts by which the amounts computed 70058
for a taxing district under ~~divisions (A), (B), and (C)~~ of this 70059
section exceeded the distributions to the taxing district under 70060
division (F) of section 321.24 of the Revised Code, and the 70061
director shall transfer that sum from the property tax 70062
administration fund to the general revenue fund. 70063

Sec. 5705.091. The board of county commissioners of each 70064
county shall establish a county mental retardation and 70065
developmental disabilities general fund. Notwithstanding sections 70066
5705.09 and 5705.10 of the Revised Code, proceeds from levies 70067
under section 5705.222 and division (L) of section 5705.19 of the 70068

Revised Code shall be deposited to the credit of the county mental 70069
retardation and developmental disabilities general fund. Accounts 70070
shall be established within the county mental retardation and 70071
developmental disabilities general fund for each of the several 70072
particular purposes of the levies as specified in the resolutions 70073
under which the levies were approved, and proceeds from different 70074
levies that were approved for the same particular purpose shall be 70075
credited to accounts for that purpose. Other money received by the 70076
county for the purposes of Chapters 3323. and 5126. of the Revised 70077
Code and not required by state or federal law to be deposited to 70078
the credit of a different fund shall also be deposited to the 70079
credit of the county mental retardation and developmental 70080
disabilities general fund, in an account appropriate to the 70081
particular purpose for which the money was received. Unless 70082
otherwise provided by law, an unexpended balance at the end of a 70083
fiscal year in any account in the county mental retardation and 70084
developmental disabilities general fund shall be appropriated the 70085
next fiscal year to the same fund. 70086

A county board of mental retardation and developmental 70087
disabilities may request, by resolution, that the board of county 70088
commissioners establish a county mental retardation and 70089
developmental disabilities capital fund for money to be used for 70090
acquisition, construction, or improvement of capital facilities or 70091
acquisition of capital equipment used in providing services to 70092
mentally retarded and developmentally disabled persons. The county 70093
board of mental retardation and developmental disabilities shall 70094
transmit a certified copy of the resolution to the board of county 70095
commissioners. Upon receiving the resolution, the board of county 70096
commissioners shall establish a county mental retardation and 70097
developmental disabilities capital fund. 70098

A county board shall request, by resolution, that the board 70099
of county commissioners establish a county MR/DD medicaid reserve 70100

fund. On receipt of the resolution, the board of county
commissioners shall establish a county MR/DD medicaid reserve
fund. The portion of federal revenue funds that the county board
earns for providing ~~habilitation center services~~, medicaid case
management services, and home and community-based services that is
needed for the county board to pay for extraordinary costs,
including extraordinary costs for services to individuals with
mental retardation or other developmental disability, and ensure
the availability of adequate funds in the event a county property
tax levy for services for individuals with mental retardation or
other developmental disability fails shall be deposited into the
fund. The county board shall use money in the fund for those
purposes in accordance with rules adopted under section 5123.0413
of the Revised Code.

Sec. 5705.211. (A) As used in this section:

(1) "Adjusted charge-off amount" for a fiscal year means two
and three-tenths per cent of a school district's recognized
valuation, as defined in section 3317.02 of the Revised Code, for
the fiscal year.

(2) "Charge-off increase" for a tax year means the dollar
amount, if any, by which the adjusted charge-off amount for the
fiscal year ending in the preceding tax year exceeds the adjusted
charge-off amount for the fiscal year ending in the current tax
year.

(3) "Levies for current expenses" means any tax levied in
excess of the ten-mill limitation for the current operating
expenses of the district and any tax levied under sections
5705.194 to 5709.197 of the Revised Code.

(4) "Taxes charged and payable" means the taxes charged and
payable from a tax levy extended on the real and public utility

property tax list and the general list of personal property after 70131
any reduction under section 319.301 of the Revised Code but before 70132
any reduction under section 319.302, 323.152, or 323.158 of the 70133
Revised Code. 70134

(B) The board of education of a city, local, or exempted 70135
village school district may adopt a resolution proposing the levy 70136
of a tax in excess of the ten-mill limitation for the purpose of 70137
paying the current operating expenses of the district. If the 70138
resolution is approved as provided in division (D) of this 70139
section, the tax may be levied at such a rate each year that the 70140
total taxes charged and payable from the levy equals the 70141
charge-off increase for the fiscal year or equals a lesser amount 70142
as prescribed under division (C) of this section. The tax may be 70143
levied for a continuing period of time or for a specific number of 70144
years, but not fewer than five years, as provided in the 70145
resolution. The tax may not be placed on the tax list for a tax 70146
year beginning before the first day of January following adoption 70147
of the resolution. A board of education may not adopt a resolution 70148
under this section proposing to levy a tax under this section 70149
concurrently with any other tax levied by the board under this 70150
section. 70151

(C) After the first year a tax is levied under this section, 70152
the rate of the tax in any year shall not exceed the rate, 70153
estimated by the county auditor, that would cause the total taxes 70154
charged and payable from all the school district's property tax 70155
levies for current expenses, including the tax levied under this 70156
section, to exceed, if levied upon the total taxable value of real 70157
and personal property listed and assessed for taxation in the 70158
preceding year, one hundred four per cent of the taxes charged and 70159
payable from the same levies imposed in the preceding year. A 70160
board of education imposing a tax under this section may specify 70161
in the resolution imposing the tax that the percentage shall be 70162

less than one hundred four per cent, but the percentage shall not 70163
be less than one hundred per cent. At any time after a resolution 70164
adopted under this section is approved by a majority of electors 70165
as provided in division (D) of this section, the board of 70166
education, by resolution, may decrease the percentage specified in 70167
the resolution levying the tax. 70168

For the purposes of this division, a renewal of a levy that 70169
was imposed in the preceding year is the same as the levy being 70170
renewed to the extent the rate of the renewal levy does not exceed 70171
the rate of the levy being renewed. A replacement of a levy that 70172
was imposed in the preceding year is the same as the replaced levy 70173
to the extent the effective rate of the replacement levy does not 70174
exceed the effective rate of the replaced levy in the last year 70175
the replaced levy was imposed. For the purposes of this division, 70176
"effective rate" of a levy equals the total of the taxes charged 70177
and payable from the levy divided by the taxable value of all real 70178
and tangible personal property subject to the levy. 70179

(D) A resolution adopted under this section shall state that 70180
the purpose of the tax is to pay current operating expenses of the 70181
district, and shall specify the first year in which the tax is to 70182
be levied, the number of years the tax will be levied or that it 70183
will be levied for a continuing period of time, and the election 70184
at which the question of the tax is to appear on the ballot, which 70185
shall be a general or special election consistent with the 70186
requirements of section 3501.01 of the Revised Code. If the board 70187
of education specifies a percentage less than one hundred four per 70188
cent pursuant to division (C) of this section, the percentage 70189
shall be specified in the resolution. 70190

Upon adoption of the resolution, the board of education may 70191
certify a copy of the resolution to the proper county board of 70192
elections. The copy of the resolution shall be certified to the 70193
board of elections not later than seventy-five days before the day 70194

of the election at which the question of the tax is to appear on 70195
the ballot. Upon receiving a timely certified copy of such a 70196
resolution, the board of elections shall make the necessary 70197
arrangements for the submission of the question to the electors of 70198
the school district, and the election shall be conducted, 70199
canvassed, and certified in the same manner as regular elections 70200
in the school district for the election of members of the board of 70201
education. Notice of the election shall be published in one or 70202
more newspapers of general circulation in the school district once 70203
per week for four consecutive weeks. The notice shall state that 70204
the purpose of the tax is for the current operating expenses of 70205
the school district, the first year the tax is to be levied, the 70206
number of years the tax is to be levied or that it is to be levied 70207
for a continuing period of time, that the tax is to be levied each 70208
year in an amount estimated to offset decreases in state base cost 70209
funding caused by increases in the district's taxable property 70210
valuation, and that the estimated additional tax in any year of 70211
the levy shall not cause the taxes charged and payable for school 70212
operating expenses to exceed the previous year's by more than one 70213
hundred four per cent, or a lesser percentage specified in the 70214
resolution levying the tax, except for increases caused by the 70215
addition of new taxable property. 70216

The question shall be submitted as a separate proposition but 70217
may be printed on the same ballot with any other proposition 70218
submitted at the same election other than the election of 70219
officers. 70220

The form of the ballot shall be substantially as follows: 70221

"An additional tax for the benefit of (name of school 70222
district) for the purpose of paying the current operating expenses 70223
of the district, for (number of years or for continuing 70224
period of time), at a rate sufficient to offset any reduction in 70225
basic state funding caused by increases in the district's taxable 70226

property valuation, but limited to prevent total revenue for the
district's operating expenses from increasing by more than
per cent per year?

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	For the tax levy
	Against the tax levy

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"

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If a majority of the electors of the school district voting
on the question vote in favor of the question, the board of
elections shall certify the results of the election to the board
of education and to the tax commissioner immediately after the
canvass.

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(E) When preparing any estimate of the contemplated receipts
from a tax levied pursuant to this section for the purposes of
sections 5705.28 to 5705.40 of the Revised Code, and in preparing
to certify the tax under section 5705.34 of the Revised Code, a
board of education authorized to levy such a tax shall use
information supplied by the department of education to determine
the charge-off increase for the tax year for which that
certification is made. If the board levied a tax under this
section in the preceding tax year, the sum to be certified for
collection from the tax shall not exceed the sum that would exceed
the limitation imposed under division (C) of this section. At the
request of the board of education or the treasurer of the school
district, the county auditor shall assist the board of education
in determining the rate or sum that may be levied under this
section.

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The board of education shall certify the sum authorized to be
levied to the county auditor, and, for the purpose of the county
auditor determining the rate at which the tax is to be levied in
the tax year, the sum so certified shall be the sum to be raised

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by the tax unless the sum exceeds the limitation imposed by 70258
division (C) of this section. A tax levied pursuant to this 70259
section shall not be levied at a rate in excess of the rate 70260
estimated by the county auditor to produce the sum certified by 70261
the board of education after the reduction required under section 70262
319.301 of the Revised Code but before the reductions under 70263
sections 319.302, 323.152, and 323.158 of the Revised Code. 70264
Notwithstanding section 5705.34 of the Revised Code, a board of 70265
education authorized to levy a tax under this section shall 70266
certify the tax to the county auditor before the first day of 70267
October of the tax year in which the tax is to be levied, or at a 70268
later date as approved by the tax commissioner. 70269

~~Sec. 5705.391. (A) A board of education shall adopt as part~~ 70270
~~of its annual appropriation measure a spending plan or in the case~~ 70271
~~of an amendment or supplement to an appropriation measure, an~~ 70272
~~amended spending plan, setting forth a schedule of expenses and~~ 70273
~~expenditures of all appropriated funds by the school district for~~ 70274
~~the fiscal year. A copy of the annual appropriation measure and~~ 70275
~~any amendment or supplement to it and the spending plan or amended~~ 70276
~~plan shall be submitted to the superintendent of public~~ 70277
~~instruction and shall set forth all revenues available for~~ 70278
~~appropriation by the district during the fiscal year and their~~ 70279
~~sources; the nature and amount of expenses to be incurred by the~~ 70280
~~district during such year, the outstanding and unpaid expenses on~~ 70281
~~the date the appropriation measure, amendment, or supplement is~~ 70282
~~adopted; the date or dates by which such expenses must be paid;~~ 70283
~~and such other information as the superintendent requires to~~ 70284
~~enable the superintendent to determine whether during such year~~ 70285
~~the district will incur any expenses that will impair its ability~~ 70286
~~to operate its schools with the revenue available to it from~~ 70287
~~existing revenue sources. The plan or amended plan shall be~~ 70288
~~presented in such detail and form as the superintendent~~ 70289

~~prescribes.~~ 70290

~~(B)~~(A) No later than July 1, 1998, the department of 70291
education and the auditor of state shall jointly adopt rules 70292
requiring ~~school districts to include~~ boards of education to 70293
submit five-year projections of operational revenues and 70294
expenditures ~~in the spending plan required by this section.~~ The 70295
rules shall provide for the auditor of state or the department to 70296
examine the five-year projections and to determine whether any 70297
further fiscal analysis is needed to ascertain whether a district 70298
has the potential to incur a deficit during the first three years 70299
of the five-year period. 70300

The auditor of state or the department may conduct any 70301
further audits or analyses necessary to assess any district's 70302
fiscal condition. If further audits or analyses are conducted by 70303
the auditor of state, the auditor of state shall notify the 70304
department of the district's fiscal condition, and the department 70305
shall immediately notify the district of any potential to incur a 70306
deficit in the current fiscal year or of any strong indications 70307
that a deficit will be incurred in either of the ensuing two 70308
years. If such audits or analyses are conducted by the department, 70309
the department shall immediately notify the district and the 70310
auditor of state of such potential deficit or strong indications 70311
thereof. 70312

A district notified under this section shall take immediate 70313
steps to eliminate any deficit in the current fiscal year and 70314
shall begin to plan to avoid the projected future deficits. 70315

~~(C)~~(B) The state board of education, in accordance with 70316
sections 3319.31 and 3319.311 of the Revised Code, may limit, 70317
suspend, or revoke a license as defined under section 3319.31 of 70318
the Revised Code that has been issued to any school employee found 70319
to have willfully contributed erroneous, inaccurate, or incomplete 70320
data required for the submission of the ~~appropriation measure and~~ 70321

~~spending plan~~ five-year projection required by this section. 70322

Sec. 5705.40. Any appropriation ordinance or measure may be 70323
amended or supplemented, provided that such amendment or 70324
supplement shall comply with all provisions of law governing the 70325
taxing authority in making an original appropriation and that no 70326
appropriation for any purpose shall be reduced below an amount 70327
sufficient to cover all unliquidated and outstanding contracts or 70328
obligations certified from or against the appropriation. Transfers 70329
may be made by resolution or ordinance from one appropriation item 70330
to another, except that a board of county commissioners shall, at 70331
the request of the county board of elections, adopt a resolution 70332
to transfer funds from one appropriation item of the board of 70333
elections to another appropriation item of the board of elections 70334
unless the board of county commissioners determines that the 70335
transfer is sought for the purpose of providing employee bonuses 70336
or salary increases other than increases necessary to reimburse 70337
employees for overtime worked. At the close of each fiscal year, 70338
the unencumbered balance of each appropriation shall revert to the 70339
respective fund from which it was appropriated and shall be 70340
subject to future appropriations, provided that funds unexpended 70341
at the end of such fiscal year previously appropriated for the 70342
payment of obligations unliquidated and outstanding, or previously 70343
appropriated pursuant to section 321.261 of the Revised Code for 70344
the collection of delinquent taxes, need not be reappropriated, 70345
but such unexpended funds shall not be included by any 70346
budget-making body or board or any county budget commission in 70347
estimating the balance available for the purposes of the next or 70348
any succeeding fiscal year. 70349

The annual appropriation measure, or an amendment or 70350
supplement thereto, may contain an appropriation for contingencies 70351
not to exceed the amount authorized by section 5705.29 of the 70352
Revised Code and in the case of a school district may also include 70353

a voluntary contingency reserve balance in the amount authorized 70354
by such section. By a two-thirds vote of all members of the taxing 70355
authority of a subdivision or taxing unit, expenditures may be 70356
authorized in pursuance of such contingency appropriation or 70357
voluntary contingency reserve balance for any lawful purpose for 70358
which public funds may be expended, if such purpose could not have 70359
reasonably been foreseen at the time of the adoption of the 70360
appropriation measure or, in the case of a voluntary contingency 70361
reserve balance, if the board of education requests payment of any 70362
portion of such balance. 70363

Sec. 5707.031. (A) As used in this section: 70364

(1) "Qualifying dealer in intangibles" has the same meaning 70365
as "qualifying dealer" in section 5725.24 of the Revised Code; 70366

(2) "Tax otherwise due" means the tax imposed on a qualifying 70367
dealer in intangibles under section 5707.03 and Chapter 5725. of 70368
the Revised Code reduced by the total amount of all other 70369
nonrefundable credits, if any, that the qualifying dealer in 70370
intangibles is entitled to claim. 70371

(B) Upon the issuance of a tax credit certificate by the Ohio 70372
venture capital authority under section 150.07 of the Revised 70373
Code, a credit may be claimed against the tax imposed on a 70374
qualifying dealer in intangibles under section 5707.03 and Chapter 70375
5725. of the Revised Code. The credit shall be claimed on a return 70376
due under section 5725.14 of the Revised Code after the 70377
certificate is issued by the authority. 70378

(C) If the qualifying dealer in intangibles elected a 70379
refundable credit under section 150.07 of the Revised Code and if 70380
the amount of the credit shown on the certificate does not exceed 70381
the tax otherwise due, then for the calendar year the qualifying 70382
dealer in intangibles shall claim a refundable credit equal to the 70383

<u>amount of the credit shown on the certificate.</u>	70384
<u>(D) If the qualifying dealer in intangibles elected a</u>	70385
<u>refundable credit under section 150.07 of the Revised Code, and if</u>	70386
<u>the amount of the refundable credit shown on the certificate</u>	70387
<u>exceeds the tax otherwise due, then for the calendar year the</u>	70388
<u>qualifying dealer in intangibles shall claim a refundable credit</u>	70389
<u>equal to the sum of the following:</u>	70390
<u>(1) The amount, if any, of the tax otherwise due;</u>	70391
<u>(2) Seventy-five per cent of the difference between the</u>	70392
<u>amount of the refundable credit shown on the certificate and the</u>	70393
<u>tax otherwise due.</u>	70394
<u>(E) If the qualifying dealer in intangibles elected a</u>	70395
<u>nonrefundable credit under section 150.07 of the Revised Code and</u>	70396
<u>if the nonrefundable credit to which the qualifying dealer in</u>	70397
<u>intangibles would otherwise be entitled under this section for any</u>	70398
<u>calendar year is greater than the tax otherwise due, the excess</u>	70399
<u>shall be allowed as a nonrefundable credit in each of the ensuing</u>	70400
<u>ten calendar years, but the amount of any excess nonrefundable</u>	70401
<u>credit allowed in the ensuing calendar year shall be deducted from</u>	70402
<u>the balance carried forward to the next calendar year.</u>	70403
Sec. 5709.07. (A) The following property shall be exempt from	70404
taxation:	70405
(1) Public schoolhouses, the books and furniture in them, and	70406
the ground attached to them necessary for the proper occupancy,	70407
use, and enjoyment of the schoolhouses, and not leased or	70408
otherwise used with a view to profit;	70409
(2) Houses used exclusively for public worship, the books and	70410
furniture in them, and the ground attached to them that is not	70411
leased or otherwise used with a view to profit and that is	70412
necessary for their proper occupancy, use, and enjoyment;	70413

(3) Real property owned and operated by a church that is used primarily for church retreats or church camping, and that is not used as a permanent residence. Real property exempted under division (A)(3) of this section may be made available by the church on a limited basis to charitable and educational institutions if the property is not leased or otherwise made available with a view to profit.

(4) Public colleges and academies and all buildings connected with them, and all lands connected with public institutions of learning, not used with a view to profit, including those buildings and lands that satisfy all of the following:

(a) The buildings are used for housing for full-time students or housing-related facilities for students, faculty, or employees of a state university, or for other purposes related to the state university's educational purpose, and the lands are underneath the buildings or are used for common space, walkways, and green spaces for the state university's students, faculty, or employees. As used in this division, "housing-related facilities" includes both parking facilities related to the buildings and common buildings made available to students, faculty, or employees of a state university. The leasing of space in housing-related facilities shall not be considered an activity with a view to profit for purposes of division (A)(4) of this section.

(b) The buildings and lands are supervised or otherwise under the control, directly or indirectly, of an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended, and the state university has entered into a qualifying joint use agreement with the organization that entitles the students, faculty, or employees of the state university to use the lands or buildings;

(c) The state university has agreed, under the terms of the qualifying joint use agreement with the organization described in division (A)(4)(b) of this section, that the state university, to the extent applicable under the agreement, will make payments to the organization in amounts sufficient to maintain agreed-upon debt service coverage ratios on bonds related to the lands or buildings. 70445
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(B) This section shall not extend to leasehold estates or real property held under the authority of a college or university of learning in this state; but leaseholds, or other estates or property, real or personal, the rents, issues, profits, and income of which is given to a municipal corporation, school district, or subdistrict in this state exclusively for the use, endowment, or support of schools for the free education of youth without charge shall be exempt from taxation as long as such property, or the rents, issues, profits, or income of the property is used and exclusively applied for the support of free education by such municipal corporation, district, or subdistrict. Division (B) of this section shall not apply with respect to buildings and lands that satisfy all of the requirements specified in divisions (A)(4)(a) to (c) of this section. 70452
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(C) For purposes of this section, if the requirements specified in divisions (A)(4)(a) to (c) of this section are satisfied, the buildings and lands with respect to which exemption is claimed under division (A)(4) of this section shall be deemed to be used with reasonable certainty in furthering or carrying out the necessary objects and purposes of a state university. 70466
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(D) As used in this section, ~~"church":~~ 70472

(1) "Church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not 70473
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formed for the private profit of any person. 70476

(2) "State university" has the same meaning as in section 3345.011 of the Revised Code. 70477
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(3) "Qualifying joint use agreement" means an agreement that satisfies all of the following: 70479
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(a) The agreement was entered into before June 30, 2004; 70481

(b) The agreement is between a state university and an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended; and 70482
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(c) The state university that is a party to the agreement reported to the Ohio board of regents that the university maintained a headcount of at least twenty-five thousand students on its main campus during the academic school year that began in calendar year 2003 and ended in calendar year 2004. 70486
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Sec. 5709.112. For tax year 2006 and each tax year thereafter, all tangible personal property used in the recovery of oil or gas, when installed and located on the premises or leased premises of the owner, shall be exempt from taxation. Such tangible personal property shall be subject to taxation if it is not installed on the premises or leased premises of the owner, or if it is used for the transmission, transportation, or distribution of oil or gas, as provided in section 5711.22 of the Revised Code. The tax commissioner may adopt rules governing the administration of the exemption provided by this section. 70491
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This section does not apply to any taxpayer that is required to file a report under section 5727.08 of the Revised Code. 70501
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Sec. 5709.12. (A) As used in this section, "independent living facilities" means any residential housing facilities and 70503
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related property that are not a nursing home, residential care 70505
facility, or adult care facility as defined in division (A) of 70506
section 5701.13 of the Revised Code. 70507

(B) Lands, houses, and other buildings belonging to a county, 70508
township, or municipal corporation and used exclusively for the 70509
accommodation or support of the poor, or leased to the state or 70510
any political subdivision for public purposes shall be exempt from 70511
taxation. Real and tangible personal property belonging to 70512
institutions that is used exclusively for charitable purposes 70513
shall be exempt from taxation, including real property belonging 70514
to an institution that is a nonprofit corporation that receives a 70515
grant under the Thomas Alva Edison grant program authorized by 70516
division (C) of section 122.33 of the Revised Code at any time 70517
during the tax year and being held for leasing or resale to 70518
others. If, at any time during a tax year for which such property 70519
is exempted from taxation, the corporation ceases to qualify for 70520
such a grant, the director of development shall notify the tax 70521
commissioner, and the tax commissioner shall cause the property to 70522
be restored to the tax list beginning with the following tax year. 70523
All property owned and used by a nonprofit organization 70524
exclusively for a home for the aged, as defined in section 5701.13 70525
of the Revised Code, also shall be exempt from taxation. 70526

(C)(1) If a home for the aged described in division (B)(1) of 70527
section 5701.13 of the Revised Code is operated in conjunction 70528
with or at the same site as independent living facilities, the 70529
exemption granted in division (B) of this section shall include 70530
kitchen, dining room, clinic, entry ways, maintenance and storage 70531
areas, and land necessary for access commonly used by both 70532
residents of the home for the aged and residents of the 70533
independent living facilities. Other facilities commonly used by 70534
both residents of the home for the aged and residents of 70535
independent living units shall be exempt from taxation only if the 70536

other facilities are used primarily by the residents of the home 70537
for the aged. Vacant land currently unused by the home, and 70538
independent living facilities and the lands connected with them 70539
are not exempt from taxation. Except as provided in division 70540
(A)(1) of section 5709.121 of the Revised Code, property of a home 70541
leased for nonresidential purposes is not exempt from taxation. 70542

(2) Independent living facilities are exempt from taxation if 70543
they are operated in conjunction with or at the same site as a 70544
home for the aged described in division (B)(2) of section 5701.13 70545
of the Revised Code; operated by a corporation, association, or 70546
trust described in division (B)(1)(b) of that section; operated 70547
exclusively for the benefit of members of the corporation, 70548
association, or trust who are retired, aged, or infirm; and 70549
provided to those members without charge in consideration of their 70550
service, without compensation, to a charitable, religious, 70551
fraternal, or educational institution. For the purposes of 70552
division (C)(2) of this section, "compensation" does not include 70553
furnishing room and board, clothing, health care, or other 70554
necessities, or stipends or other de minimis payments to defray 70555
the cost thereof. 70556

(D)(1) A private corporation established under federal law, 70557
defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as 70558
amended, the objects of which include encouraging the advancement 70559
of science generally, or of a particular branch of science, the 70560
promotion of scientific research, the improvement of the 70561
qualifications and usefulness of scientists, or the increase and 70562
diffusion of scientific knowledge is conclusively presumed to be a 70563
charitable or educational institution. A private corporation 70564
established as a nonprofit corporation under the laws of a state, 70565
that is exempt from federal income taxation under section 70566
501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 70567
U.S.C.A. 1, as amended, and has as its principal purpose one or 70568

more of the foregoing objects, also is conclusively presumed to be a charitable or educational institution.

The fact that an organization described in this division operates in a manner that results in an excess of revenues over expenses shall not be used to deny the exemption granted by this section, provided such excess is used, or is held for use, for exempt purposes or to establish a reserve against future contingencies; and, provided further, that such excess may not be distributed to individual persons or to entities that would not be entitled to the tax exemptions provided by this chapter. Nor shall the fact that any scientific information diffused by the organization is of particular interest or benefit to any of its individual members be used to deny the exemption granted by this section, provided that such scientific information is available to the public for purchase or otherwise.

(2) Division (D)(2) of this section does not apply to real property exempted from taxation under this section and division ~~(C)(A)~~(3) of section 5709.121 of the Revised Code and belonging to a nonprofit corporation described in division (D)(1) of this section that has received a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code during any of the tax years the property was exempted from taxation.

When a private corporation described in division (D)(1) of this section sells all or any portion of a tract, lot, or parcel of real estate that has been exempt from taxation under this section and section 5709.121 of the Revised Code, the portion sold shall be restored to the tax list for the year following the year of the sale and a charge shall be levied against the sold property in an amount equal to the tax savings on such property during the four tax years preceding the year the property is placed on the tax list. The tax savings equals the amount of the additional

taxes that would have been levied if such property had not been 70601
exempt from taxation. 70602

The charge constitutes a lien of the state upon such property 70603
as of the first day of January of the tax year in which the charge 70604
is levied and continues until discharged as provided by law. The 70605
charge may also be remitted for all or any portion of such 70606
property that the tax commissioner determines is entitled to 70607
exemption from real property taxation for the year such property 70608
is restored to the tax list under any provision of the Revised 70609
Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 70610
5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, 70611
upon an application for exemption covering the year such property 70612
is restored to the tax list filed under section 5715.27 of the 70613
Revised Code. 70614

(E) Real property held by an organization organized and 70615
operated exclusively for charitable purposes as described under 70616
section 501(c)(3) of the Internal Revenue Code and exempt from 70617
federal taxation under section 501(a) of the Internal Revenue 70618
Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose 70619
of constructing or rehabilitating residences for eventual transfer 70620
to qualified low-income families through sale, lease, or land 70621
installment contract, shall be exempt from taxation. 70622

The exemption shall commence on the day title to the property 70623
is transferred to the organization and shall continue to the end 70624
of the tax year in which the organization transfers title to the 70625
property to a qualified low-income family. In no case shall the 70626
exemption extend beyond the second succeeding tax year following 70627
the year in which the title was transferred to the organization. 70628
If the title is transferred to the organization and from the 70629
organization to a qualified low-income family in the same tax 70630
year, the exemption shall continue to the end of that tax year. 70631
The proportionate amount of taxes that are a lien but not yet 70632

determined, assessed, and levied for the tax year in which title
is transferred to the organization shall be remitted by the county
auditor for each day of the year that title is held by the
organization.

Upon transferring the title to another person, the
organization shall file with the county auditor an affidavit
affirming that the title was transferred to a qualified low-income
family or that the title was not transferred to a qualified
low-income family, as the case may be; if the title was
transferred to a qualified low-income family, the affidavit shall
identify the transferee by name. If the organization transfers
title to the property to anyone other than a qualified low-income
family, the exemption, if it has not previously expired, shall
terminate, and the property shall be restored to the tax list for
the year following the year of the transfer and a charge shall be
levied against the property in an amount equal to the amount of
additional taxes that would have been levied if such property had
not been exempt from taxation. The charge constitutes a lien of
the state upon such property as of the first day of January of the
tax year in which the charge is levied and continues until
discharged as provided by law.

The application for exemption shall be filed as otherwise
required under section 5715.27 of the Revised Code, except that
the organization holding the property shall file with its
application documentation substantiating its status as an
organization organized and operated exclusively for charitable
purposes under section 501(c)(3) of the Internal Revenue Code and
its qualification for exemption from federal taxation under
section 501(a) of the Internal Revenue Code, and affirming its
intention to construct or rehabilitate the property for the
eventual transfer to qualified low-income families.

As used in this division, "qualified low-income family" means

a family whose income does not exceed two hundred per cent of the
official federal poverty guidelines as revised annually in
accordance with section 673(2) of the "Omnibus Budget
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as
amended, for a family size equal to the size of the family whose
income is being determined.

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

~~(A)~~(1) It is used by such institution, the state, or
political subdivision, or by one or more other such institutions,
the state, or political subdivisions under a lease, sublease, or
other contractual arrangement:

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

~~(2)~~(b) For other charitable, educational, or public
purposes~~;~~.

~~(B)~~(2) It is made available under the direction or control of
such institution, the state, or political subdivision for use in
furtherance of or incidental to its charitable, educational, or
public purposes and not with the view to profit.

~~(C)~~(3) It is used by an organization described in division
(D) of section 5709.12 of the Revised Code. If the organization is
a corporation that receives a grant under the Thomas Alva Edison
grant program authorized by division (C) of section 122.33 of the
Revised Code at any time during the tax year, "used," for the

purposes of this division, includes holding property for lease or resale to others. 70695
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(B)(1) Property described in division (A)(1)(a) of this section shall continue to be considered as used exclusively for charitable or public purposes even if the property is conveyed through one conveyance or a series of conveyances to an entity that is not a charitable or educational institution and is not the state or a political subdivision, provided that all of the following conditions apply with respect to that property: 70697
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(a) The property has been listed as exempt on the county auditor's tax list and duplicate for the county in which it is located for the ten tax years immediately preceding the year in which the property is conveyed through one conveyance or a series of conveyances; 70704
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(b) The owner to which the property is conveyed through one conveyance or a series of conveyances leases the property through one lease or a series of leases to the entity that owned or occupied the property for the ten tax years immediately preceding the year in which the property is conveyed or an affiliate of such prior owner or occupant; 70709
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(c) The property includes improvements that are at least fifty years old; 70715
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(d) The property is being renovated in connection with a claim for historic preservation tax credits available under federal law; 70717
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(e) The property continues to be used for the purposes described in division (A)(1)(a) of this section after its conveyance; and 70720
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(f) The property is certified by the United States secretary of the interior as a "certified historic structure" or certified as part of a certified historic structure. 70723
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(2) Notwithstanding section 5715.27 of the Revised Code, an application for exemption from taxation of property described in division (B)(1) of this section may be filed by either the owner of the property or its occupant. 70726
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Sec. 5709.40. (A) As used in this section: 70730

(1) "Blighted area" and "impacted city" have the same 70731
meanings as in section 1728.01 of the Revised Code. 70732

(2) "Business day" means a day of the week excluding 70733
Saturday, Sunday, and a legal holiday as defined under section 70734
1.14 of the Revised Code. 70735

(3) "Housing renovation" means a project carried out for 70736
residential purposes. 70737

(4) "Improvement" means the increase in the assessed value of 70738
any real property that would first appear on the tax list and 70739
duplicate of real and public utility property after the effective 70740
date of an ordinance adopted under this section were it not for 70741
the exemption granted by that ordinance. ~~"Improvement" does not~~ 70742
~~include a public infrastructure improvement.~~ 70743

(5) "Incentive district" means an area not more than three 70744
hundred acres in size enclosed by a continuous boundary in which a 70745
project is being, or will be, undertaken and having one or more of 70746
the following distress characteristics: 70747

(a) At least fifty-one per cent of the residents of the 70748
district have incomes of less than eighty per cent of the median 70749
income of residents of the political subdivision in which the 70750
district is located, as determined in the same manner specified 70751
under section 119(b) of the "Housing and Community Development Act 70752
of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended; 70753

(b) The average rate of unemployment in the district during 70754
the most recent twelve-month period for which data are available 70755

is equal to at least one hundred fifty per cent of the average
rate of unemployment for this state for the same period.

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

(d) The district is a blighted area.

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

(f) As certified by the engineer for the political
subdivision, the public infrastructure serving the district is
inadequate to meet the development needs of the district as
evidenced by a written economic development plan or urban renewal
plan for the district that has been adopted by the legislative
authority of the subdivision.

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

(6) "Project" means development activities undertaken on one
or more parcels, including, but not limited to, construction,
expansion, and alteration of buildings or structures, demolition,
remediation, and site development, and any building or structure
that results from those activities.

(7) "Public infrastructure improvement" includes, but is not
limited to, public roads and highways; water and sewer lines;
environmental remediation; land acquisition, including acquisition
in aid of industry, commerce, distribution, or research;
demolition, including demolition on private property when
determined to be necessary for economic development purposes;

stormwater and flood remediation projects, including such projects 70786
on private property when determined to be necessary for public 70787
health, safety, and welfare; the provision of gas, electric, and 70788
communications service facilities; and the enhancement of public 70789
waterways through improvements that allow for greater public 70790
access. "Public infrastructure improvement" does not include 70791
police or fire equipment. 70792

(B) The legislative authority of a municipal corporation, by 70793
ordinance, may declare improvements to certain parcels of real 70794
property located in the municipal corporation to be a public 70795
purpose. Improvements with respect to a parcel that is used or to 70796
be used for residential purposes may be declared a public purpose 70797
under this division only if the parcel is located in a blighted 70798
area of an impacted city. Except as otherwise provided in division 70799
(D) of this section, not more than seventy-five per cent of an 70800
improvement thus declared to be a public purpose may be exempted 70801
from real property taxation; ~~the percentage exempted shall not,~~ 70802
~~except as otherwise provided in that division, exceed the~~ 70803
~~estimated percentage of the incremental demand placed on the~~ 70804
~~public infrastructure improvements that is directly attributable~~ 70805
~~to the exempted improvement.~~ The ordinance shall specify the 70806
percentage of the improvement to be exempted from taxation. 70807

An ordinance adopted or amended under this division shall 70808
designate the specific public infrastructure improvements made, to 70809
be made, or in the process of being made by the municipal 70810
corporation that directly benefit, or that once made will directly 70811
benefit, the parcels for which improvements are declared to be a 70812
public purpose. ~~For the purposes of this division, a public~~ 70813
~~infrastructure improvement directly benefits such a parcel only if~~ 70814
~~a project on the parcel places direct, additional demand on the~~ 70815
~~public infrastructure improvement or, if the public infrastructure~~ 70816
~~improvement has not yet been completed, will place direct,~~ 70817

~~additional demand on the public infrastructure improvement once it~~ 70818
~~is completed.~~ The service payments provided for in section 5709.42 70819
of the Revised Code shall be used to finance the public 70820
infrastructure improvements designated in the ordinance or for the 70821
purpose described in division (D)(1) of this section. 70822

(C)(1) The legislative authority of a municipal corporation 70823
may adopt an ordinance creating an incentive district and 70824
declaring improvements to parcels within the district to be a 70825
public purpose and, except as provided in division (F) of this 70826
section, exempt from taxation as provided in this section, but no 70827
legislative authority of a municipal corporation that has a 70828
population that exceeds twenty-five thousand, as shown by the most 70829
recent federal decennial census, shall adopt an ordinance that 70830
creates an incentive district if, as a result of adopting the 70831
ordinance, more than twenty-five per cent of the municipal 70832
corporation's taxable value, as of the first day of January of the 70833
year in which the ordinance takes effect, is subject to an 70834
exemption because of an incentive district. The twenty-five per 70835
cent limitation does not apply to an incentive district that was 70836
created by an ordinance adopted prior to January 1, 2006, unless 70837
the legislative authority creates an additional incentive district 70838
after that date. The ordinance shall delineate the boundary of the 70839
district and specifically identify each parcel within the 70840
district. A district may not include any parcel that is or has 70841
been exempted from taxation under division (B) of this section or 70842
that is or has been within another district created under this 70843
division. An ordinance may create more than one such district, and 70844
more than one ordinance may be adopted under ~~this~~ division (C)(1) 70845
of this section. 70846

(2) Not later than thirty days prior to adopting an ordinance 70847
under ~~this~~ division (C)(1) of this section, if the municipal 70848
corporation intends to apply for exemptions from taxation under 70849

section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the legislative authority of a municipal corporation shall conduct a public hearing on the proposed ordinance. Not later than thirty days prior to the public hearing, the legislative authority shall give notice of the public hearing and the proposed ordinance by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed ordinance.

(3)(a) An ordinance adopted under ~~this~~ division (C)(1) of this section shall specify the life of the district and the percentage of the improvements to be exempted ~~and~~, shall designate the public infrastructure improvements made ~~or~~, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The ordinance also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the ordinance. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes. Except as otherwise permitted under that division, the service payments provided for in section 5709.42 of the Revised Code shall be used to finance the designated public infrastructure improvements or for the purpose described in division (D)(1) of this section.

(b) An ordinance adopted under ~~this~~ division (C)(1) of this section may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of housing renovations within the district, provided that the ordinance also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes.

Service payments may be used to finance or support loans, deferred 70882
loans, and grants to persons for the purpose of housing 70883
renovations within the district. The ordinance shall designate the 70884
parcels within the district that are eligible for housing 70885
renovation. The ordinance shall state separately the amounts or 70886
the percentages of the expected aggregate service payments that 70887
are designated for each public infrastructure improvement and for 70888
the general purpose of housing renovations. 70889

(4) Except with the approval of the board of education of 70890
each city, local, or exempted village school district within the 70891
territory of which the district is or will be located, and subject 70892
to division (E) of this section, the life of a an incentive 70893
district shall not exceed ten years, and the percentage of 70894
improvements to be exempted shall not exceed seventy-five per 70895
cent. With ~~such~~ approval of the board of education, the life of a 70896
district may be not more than thirty years, and the percentage of 70897
improvements to be exempted may be not more than one hundred per 70898
cent. 70899

(5) Approval of a board of education shall be obtained in the 70900
manner provided in division (D) of this section for exemptions 70901
under division (B) of this section, except that the notice to the 70902
board of education shall delineate the boundaries of the district, 70903
specifically identify each parcel within the district, identify 70904
each anticipated improvement in the district, provide an estimate 70905
of the true value in money of each such improvement, specify the 70906
life of the district and the percentage of improvements that would 70907
be exempted, and indicate the date on which the legislative 70908
authority intends to adopt the ordinance. 70909

~~A municipal corporation shall not adopt an ordinance under 70910
this division after June 30, 2007.~~ 70911

(D)(1) If the ordinance declaring improvements to a parcel to 70912
be a public purpose or creating an incentive district specifies 70913

that payments in lieu of taxes provided for in section 5709.42 of
the Revised Code shall be paid to the city, local, or exempted
village school district in which the parcel is located in the
amount of the taxes that would have been payable to the school
district if the improvements had not been exempted from taxation,
the percentage of the improvement that may be exempted from
taxation may exceed seventy-five per cent, and the exemption may
be granted for up to thirty years, without the approval of the
board of education as otherwise required under division (D)(2) of
this section.

(2) Improvements with respect to a parcel may be exempted
from taxation under division (B) of this section for up to ten
years or, with the approval under this paragraph of the board of
education of the city, local, or exempted village school district
within which the parcel is located, for up to thirty years. The
percentage of the improvement exempted from taxation may, with
such approval, exceed seventy-five per cent, but shall not exceed
one hundred per cent. Not later than forty-five business days
prior to adopting an ordinance under this section declaring
improvements to be a public purpose that is subject to approval by
a board of education under this division, the legislative
authority shall deliver to the board of education a notice stating
its intent to adopt an ordinance making that declaration. The
notice shall identify the parcels for which improvements are to be
exempted from taxation, provide an estimate of the true value in
money of the improvements, specify the period for which the
improvements would be exempted from taxation and the percentage of
the improvement that would be exempted, and indicate the date on
which the legislative authority intends to adopt the ordinance.
The board of education, by resolution adopted by a majority of the
board, may approve the exemption for the period or for the
exemption percentage specified in the notice, may disapprove the

exemption for the number of years in excess of ten, may disapprove 70946
the exemption for the percentage of the improvement to be exempted 70947
in excess of seventy-five per cent, or both, or may approve the 70948
exemption on the condition that the legislative authority and the 70949
board negotiate an agreement providing for compensation to the 70950
school district equal in value to a percentage of the amount of 70951
taxes exempted in the eleventh and subsequent years of the 70952
exemption period or, in the case of exemption percentages in 70953
excess of seventy-five per cent, compensation equal in value to a 70954
percentage of the taxes that would be payable on the portion of 70955
the improvement in excess of seventy-five per cent were that 70956
portion to be subject to taxation, or other mutually agreeable 70957
compensation. The board of education shall certify its resolution 70958
to the legislative authority not later than fourteen days prior to 70959
the date the legislative authority intends to adopt the ordinance 70960
as indicated in the notice. ~~If the board of education approves the~~ 70961
~~exemption on the condition that a compensation agreement be~~ 70962
~~negotiated, the board in its resolution shall propose a~~ 70963
~~compensation percentage.~~ If the board of education and the 70964
legislative authority negotiate a mutually acceptable compensation 70965
agreement, the ordinance may declare the improvements a public 70966
purpose for the number of years specified in the ordinance or, in 70967
the case of exemption percentages in excess of seventy-five per 70968
cent, for the exemption percentage specified in the ordinance. In 70969
either case, if the board and the legislative authority fail to 70970
negotiate a mutually acceptable compensation agreement, the 70971
ordinance may declare the improvements a public purpose for not 70972
more than ten years, but shall not exempt more than seventy-five 70973
per cent of the improvements from taxation, ~~or, in the case of an~~ 70974
~~ordinance adopted under division (B) of this section, not more~~ 70975
~~than the estimated percentage of the incremental demand as~~ 70976
~~otherwise prescribed by division (B) of this section if that~~ 70977
~~percentage is less than seventy five per cent.~~ If the board fails 70978

to certify a resolution to the legislative authority within the 70979
time prescribed by this division, the legislative authority 70980
thereupon may adopt the ordinance and may declare the improvements 70981
a public purpose for up to thirty years, or, in the case of 70982
exemption percentages proposed in excess of seventy-five per cent, 70983
for the exemption percentage specified in the ordinance. The 70984
legislative authority may adopt the ordinance at any time after 70985
the board of education certifies its resolution approving the 70986
exemption to the legislative authority, or, if the board approves 70987
the exemption on the condition that a mutually acceptable 70988
compensation agreement be negotiated, at any time after the 70989
compensation agreement is agreed to by the board and the 70990
legislative authority. 70991

(3) If a board of education has adopted a resolution waiving 70992
its right to approve exemptions from taxation and the resolution 70993
remains in effect, approval of exemptions by the board is not 70994
required under this division. If a board of education has adopted 70995
a resolution allowing a legislative authority to deliver the 70996
notice required under ~~this~~ division (D)(2) of this section fewer 70997
than forty-five business days prior to the legislative authority's 70998
adoption of the ordinance, the legislative authority shall deliver 70999
the notice to the board not later than the number of days prior to 71000
such adoption as prescribed by the board in its resolution. If a 71001
board of education adopts a resolution waiving its right to 71002
approve agreements or shortening the notification period, the 71003
board shall certify a copy of the resolution to the legislative 71004
authority. If the board of education rescinds such a resolution, 71005
it shall certify notice of the rescission to the legislative 71006
authority. 71007

(4) If the legislative authority is not required by division 71008
(D)(1), (2), or (3) of this section to notify the board of 71009
education of the legislative authority's intent to declare 71010

improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(E)(1) If a proposed ordinance under division (C)(1) of this section exempts improvements with respect to a parcel for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the legislative authority of the municipal corporation shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt an ordinance creating an incentive district. The notice shall include a copy of the proposed ordinance.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both, or may accept either or both exemptions. If the board of county commissioners objects, the board may negotiate an agreement with the legislative authority that provides to the board in the eleventh and subsequent years of the exemption period compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the legislative authority not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the legislative authority

may adopt the ordinance, and no compensation shall be provided to 71043
the board of county commissioners. If the board timely certifies 71044
its resolution objecting to the ordinance, the legislative 71045
authority may adopt the ordinance at any time after the 71046
compensation agreement is agreed to by the board and the 71047
legislative authority, or, if no compensation agreement is 71048
negotiated, at any time after the legislative authority agrees to 71049
provide compensation to the board of fifty per cent of the taxes 71050
that would be payable to the county in the eleventh and subsequent 71051
years of the exemption period on the portion of the improvement in 71052
excess of seventy-five per cent, were that portion to be subject 71053
to taxation. 71054

(F) Any of the following property tax levies that are enacted 71055
on or after January 1, 2006, and after the date an ordinance 71056
creating an incentive district is adopted on or after January 1, 71057
2006, under division (C)(1) of this section shall be levied on 71058
property that was exempted from taxation under division (C) of 71059
this section, and revenues collected from such levies shall not be 71060
used to provide service payments under this section: 71061

(1) A tax levied under division (L) of section 5705.19 of the 71062
Revised Code for community mental retardation and developmental 71063
disabilities programs and services pursuant to Chapter 5126. of 71064
the Revised Code; 71065

(2) A tax levied under division (Y) of section 5705.19 of the 71066
Revised Code for providing or maintaining senior citizens services 71067
or facilities; 71068

(3) A tax levied under section 5705.22 of the Revised Code 71069
for county hospitals; 71070

(4) A tax levied under section 5705.221 of the Revised Code 71071
for alcohol, drug addiction, and mental health services; 71072

(5) A tax levied under section 5705.23 of the Revised Code 71073

<u>for library purposes;</u>	71074
<u>(6) A tax levied under section 5705.24 of the Revised Code</u>	71075
<u>for the support of children services and the placement and care of</u>	71076
<u>children.</u>	71077
<u>(G) An exemption from taxation granted under this section</u>	71078
<u>commences with the tax year in which an improvement first appears</u>	71079
<u>on the tax list and duplicate of real and public utility property</u>	71080
<u>and that begins after the effective date of specified in the</u>	71081
<u>ordinance. Except as otherwise provided in this division, the</u>	71082
<u>exemption ends on the date specified in the ordinance as the date</u>	71083
<u>the improvement ceases to be a public purpose or the incentive</u>	71084
<u>district expires, or ends on the date on which the public</u>	71085
<u>infrastructure improvements and housing renovations are paid in</u>	71086
<u>full from the municipal public improvement tax increment</u>	71087
<u>equivalent fund established under division (A) of section 5709.43</u>	71088
<u>of the Revised Code, whichever occurs first. The exemption of an</u>	71089
<u>improvement with respect to a parcel may end on a later date, as</u>	71090
<u>specified in the ordinance, if the legislative authority and the</u>	71091
<u>board of education of the city, local, or exempted village school</u>	71092
<u>district within which the parcel is located have entered into a</u>	71093
<u>compensation agreement under section 5709.82 of the Revised Code</u>	71094
<u>with respect to the improvement or district and the board of</u>	71095
<u>education has approved the term of the exemption under division</u>	71096
<u>(D)(2) of this section, but in no case shall the improvement be</u>	71097
<u>exempted from taxation for more than thirty years. Exemptions</u>	71098
<u>shall be claimed and allowed in the same manner as in the case of</u>	71099
<u>other real property exemptions. If an exemption status changes</u>	71100
<u>during a year, the procedure for the apportionment of the taxes</u>	71101
<u>for that year is the same as in the case of other changes in tax</u>	71102
<u>exemption status during the year.</u>	71103
<u>(F)(H) Additional municipal financing of public</u>	71104
<u>infrastructure improvements and housing renovations may be</u>	71105

provided by any methods that the municipal corporation may 71106
otherwise use for financing such improvements. If the municipal 71107
corporation issues bonds or notes to finance the public 71108
infrastructure improvements and housing renovations and pledges 71109
money from the municipal public improvement tax increment 71110
equivalent fund to pay the interest on and principal of the bonds 71111
or notes, the bonds or notes are not subject to Chapter 133. of 71112
the Revised Code. 71113

~~(G)~~(I) The municipal corporation, not later than fifteen days 71114
after the adoption of an ordinance under this section, shall 71115
submit to the director of development a copy of the ordinance. On 71116
or before the thirty-first day of March of each year, the 71117
municipal corporation shall submit a status report to the director 71118
of development. The report shall indicate, in the manner 71119
prescribed by the director, the progress of the project during 71120
each year that an exemption remains in effect, including a summary 71121
of the receipts from service payments in lieu of taxes; 71122
expenditures of money from the funds created under section 5709.43 71123
of the Revised Code; a description of the public infrastructure 71124
improvements and housing renovations financed with such 71125
expenditures; and a quantitative summary of changes in employment 71126
and private investment resulting from each project. 71127

~~(H)~~(J) Nothing in this section shall be construed to prohibit 71128
a legislative authority from declaring to be a public purpose 71129
improvements with respect to more than one parcel. 71130

Sec. 5709.73. (A) As used in this section and section 5709.74 71131
of the Revised Code: 71132

(1) "Business day" means a day of the week excluding 71133
Saturday, Sunday, and a legal holiday as defined in section 1.14 71134
of the Revised Code. 71135

(2) "Further improvements" or "improvements" means the 71136

increase in the ~~true~~ assessed value of real property that would
first appear on the tax list and duplicate of real and public
utility property after the effective date of a resolution adopted
under this section were it not for the exemption granted by that
resolution. For purposes of division (B) of this section,
"improvements" do not include any property used or to be used for
residential purposes.

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

(4) "Incentive district" has the same meaning as in section
5709.40 of the Revised Code, except that a blighted area is in the
unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have
the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote,
adopt a resolution that declares to be a public purpose any public
infrastructure improvements made that are necessary for the
development of certain parcels of land located in the
unincorporated area of the township. Except as otherwise provided
in division (D) of this section, the resolution may exempt from
real property taxation not more than seventy-five per cent of
further improvements to a parcel of land ~~which~~ that directly
benefits from such public infrastructure improvements; ~~the~~
~~percentage exempted shall not, except as otherwise provided in~~
~~division (D) of this section, exceed the estimated percentage of~~
~~the incremental demand placed on the public infrastructure~~
~~improvements that is directly attributable to the exempted~~
~~improvement. For the purposes of this division, a public~~
~~infrastructure improvement directly benefits a parcel of land only~~
~~if a project on the parcel places direct, additional demand on the~~
~~public infrastructure improvement, or, if the public~~

~~infrastructure improvement has not yet been constructed, will~~ 71168
~~place direct, additional demand on the public infrastructure~~ 71169
~~improvement when completed.~~ The resolution shall specify the 71170
percentage of the further improvements to be exempted. 71171

(C)(1) A board of township trustees may adopt, by unanimous 71172
vote, a resolution creating an incentive district and declaring 71173
improvements to parcels within the district to be a public purpose 71174
and, except as provided in division (F) of this section, exempt 71175
from taxation as provided in this section, but no board of 71176
township trustees of a township that has a population that exceeds 71177
twenty-five thousand, as shown by the most recent federal 71178
decennial census, shall adopt a resolution that creates an 71179
incentive district if, as a result of adopting the resolution, 71180
more than twenty-five per cent of the township's taxable value, as 71181
of the first day of January of the year in which the resolution 71182
takes effect, is subject to exemption because of an incentive 71183
district. The twenty-five per cent limitation does not apply to an 71184
incentive district that was created by a resolution adopted prior 71185
to January 1, 2006, unless the board creates an additional 71186
incentive district after that date. The district shall be located 71187
within the unincorporated area of the township and shall not 71188
include any territory that is included within a district created 71189
under division (B) of section 5709.78 of the Revised Code. The 71190
resolution shall delineate the boundary of the district and 71191
specifically identify each parcel within the district. A district 71192
may not include any parcel that is or has been exempted from 71193
taxation under division (B) of this section or that is or has been 71194
within another district created under this division. A resolution 71195
may create more than one such district, and more than one 71196
resolution may be adopted under ~~this~~ division (C)(1) of this 71197
section. 71198

(2) Not later than thirty days prior to adopting a resolution 71199

under ~~this~~ division (C)(1) of this section, if the township 71200
intends to apply for exemptions from taxation under section 71201
5709.911 of the Revised Code on behalf of owners of real property 71202
located within the proposed incentive district, the board shall 71203
conduct a public hearing on the proposed resolution. Not later 71204
than thirty days prior to the public hearing, the board shall give 71205
notice of the public hearing and the proposed resolution by first 71206
class mail to every real property owner whose property is located 71207
within the boundaries of the proposed incentive district that is 71208
the subject of the proposed resolution. 71209

(3)(a) A resolution under ~~this~~ division (C)(1) of this 71210
section shall specify the life of the district and the percentage 71211
of the improvements to be exempted ~~and~~, shall designate the public 71212
infrastructure improvements made ~~or~~, to be made, or in the process 71213
of being made, that benefit or serve, or, once made, will benefit 71214
or serve parcels in the district. The resolution also shall 71215
identify one or more specific projects being, or to be, undertaken 71216
in the district that place additional demand on the public 71217
infrastructure improvements designated in the resolution. The 71218
project identified may, but need not be, the project under 71219
division (C)(3)(b) of this section that places real property in 71220
use for commercial or industrial purposes. 71221

(b) A resolution adopted under ~~this~~ division (C)(1) of this 71222
section may authorize the use of service payments provided for in 71223
section 5709.74 of the Revised Code for the purpose of housing 71224
renovations within the district, provided that the resolution also 71225
designates public infrastructure improvements that benefit or 71226
serve the district, and that a project within the district places 71227
real property in use for commercial or industrial purposes. 71228
Service payments may be used to finance or support loans, deferred 71229
loans, and grants to persons for the purpose of housing 71230
renovations within the district. The resolution shall designate 71231

the parcels within the district that are eligible for housing 71232
renovations. The resolution shall state separately the amount or 71233
the percentages of the expected aggregate service payments that 71234
are designated for each public infrastructure improvement and for 71235
the purpose of housing renovations. 71236

(4) Except with the approval of the board of education of 71237
each city, local, or exempted village school district within the 71238
territory of which the district is or will be located, and subject 71239
to division (E) of this section, the life of a an incentive 71240
district shall not exceed ten years, and the percentage of 71241
improvements to be exempted shall not exceed seventy-five per 71242
cent. With ~~such~~ approval of the board of education, the life of a 71243
district may be not more than thirty years, and the percentage of 71244
improvements to be exempted may be not more than one hundred per 71245
cent. 71246

(5) Approval of a board of education shall be obtained in the 71247
manner provided in division (D) of this section for exemptions 71248
under division (B) of this section, except that the notice to the 71249
board of education shall delineate the boundaries of the district, 71250
specifically identify each parcel within the district, identify 71251
each anticipated improvement in the district, provide an estimate 71252
of the true value in money of each such improvement, specify the 71253
life of the district and the percentage of improvements that would 71254
be exempted, and indicate the date on which the board of township 71255
trustees intends to adopt the resolution. 71256

~~A board of township trustees shall not adopt a resolution 71257
under this division after June 30, 2007.~~ 71258

(D) Improvements with respect to a parcel may be exempted 71259
from taxation under division (B) of this section for up to ten 71260
years or, with the approval of the board of education of the city, 71261
local, or exempted village school district within which the parcel 71262
is located, for up to thirty years. The percentage of the 71263

improvements exempted from taxation may, with such approval, 71264
exceed seventy-five per cent, but shall not exceed one hundred per 71265
cent. Not later than forty-five business days prior to adopting a 71266
resolution under this section declaring improvements to be a 71267
public purpose that is subject to approval by a board of education 71268
under this division, the board of trustees shall deliver to the 71269
board of education a notice stating its intent to adopt a 71270
resolution making that declaration. The notice shall identify the 71271
parcels for which improvements are to be exempted from taxation, 71272
provide an estimate of the true value in money of the 71273
improvements, specify the period for which the improvements would 71274
be exempted from taxation and the percentage of the improvements 71275
that would be exempted, and indicate the date on which the board 71276
of trustees intends to adopt the resolution. The board of 71277
education, by resolution adopted by a majority of the board, may 71278
approve the exemption for the period or for the exemption 71279
percentage specified in the notice, may disapprove the exemption 71280
for the number of years in excess of ten, may disapprove the 71281
exemption for the percentage of the improvements to be exempted in 71282
excess of seventy-five per cent, or both, or may approve the 71283
exemption on the condition that the board of trustees and the 71284
board of education negotiate an agreement providing for 71285
compensation to the school district equal in value to a percentage 71286
of the amount of taxes exempted in the eleventh and subsequent 71287
years of the exemption period or, in the case of exemption 71288
percentages in excess of seventy-five per cent, compensation equal 71289
in value to a percentage of the taxes that would be payable on the 71290
portion of the improvements in excess of seventy-five per cent 71291
were that portion to be subject to taxation, or other mutually 71292
agreeable compensation. The board of education shall certify its 71293
resolution to the board of trustees not later than fourteen days 71294
prior to the date the board of trustees intends to adopt the 71295
resolution as indicated in the notice. ~~If the board of education~~ 71296

~~approves the exemption on the condition that a compensation~~ 71297
~~agreement be negotiated, the board of education in its resolution~~ 71298
~~shall propose a compensation percentage.~~ If the board of education 71299
and the board of trustees negotiate a mutually acceptable 71300
compensation agreement, the resolution may declare the 71301
improvements a public purpose for the number of years specified in 71302
the resolution or, in the case of exemption percentages in excess 71303
of seventy-five per cent, for the exemption percentage specified 71304
in the resolution. In either case, if the board of education and 71305
the board of trustees fail to negotiate a mutually acceptable 71306
compensation agreement, the resolution may declare the 71307
improvements a public purpose for not more than ten years, but 71308
shall not exempt more than seventy-five per cent of the 71309
improvements from taxation, ~~or, in the case of a resolution~~ 71310
~~adopted under division (B) of this section, not more than the~~ 71311
~~estimated percentage of the incremental demand as otherwise~~ 71312
~~prescribed by division (B) of this section if that percentage is~~ 71313
~~less than seventy five per cent.~~ If the board of education fails 71314
to certify a resolution to the board of trustees within the time 71315
prescribed by this section, the board of trustees thereupon may 71316
adopt the resolution and may declare the improvements a public 71317
purpose for up to thirty years or, in the case of exemption 71318
percentages proposed in excess of seventy-five per cent, for the 71319
exemption percentage specified in the resolution. The board of 71320
township trustees may adopt the resolution at any time after the 71321
board of education certifies its resolution approving the 71322
exemption to the board of township trustees, or, if the board of 71323
education approves the exemption on the condition that a mutually 71324
acceptable compensation agreement be negotiated, at any time after 71325
the compensation agreement is agreed to by the board of education 71326
and the board of township trustees. 71327

If a board of education has adopted a resolution waiving its 71328
right to approve exemptions from taxation and the resolution 71329

remains in effect, approval of such exemptions by the board of
education is not required under this division. If a board of
education has adopted a resolution allowing a board of township
trustees to deliver the notice required under this division fewer
than forty-five business days prior to adoption of the resolution
by the board of township trustees, the board of township trustees
shall deliver the notice to the board of education not later than
the number of days prior to such adoption as prescribed by the
board of education in its resolution. If a board of education
adopts a resolution waiving its right to approve exemptions or
shortening the notification period, the board of education shall
certify a copy of the resolution to the board of township
trustees. If the board of education rescinds such a resolution, it
shall certify notice of the rescission to the board of township
trustees.

If the board of trustees is not required by this division to
notify the board of education of the board of trustees' intent to
declare improvements to be a public purpose, the board of trustees
shall comply with the notice requirements imposed under section
5709.83 of the Revised Code before taking formal action to adopt
the resolution making that declaration, unless the board of
education has adopted a resolution under that section waiving its
right to receive such a notice.

(E)(1) If a proposed resolution under division (C)(1) of this
section exempts improvements with respect to a parcel for more
than ten years, or the percentage of the improvement exempted from
taxation exceeds seventy-five per cent, not later than forty-five
business days prior to adopting the ordinance the board of
township trustees shall deliver to the board of county
commissioners of the county within which the incentive district is
or will be located a notice that states its intent to adopt a
resolution creating an incentive district. The notice shall

include a copy of the proposed resolution. 71362

(2) The board of county commissioners, by resolution adopted 71363
by a majority of the board, may object to the exemption for the 71364
number of years in excess of ten, may object to the exemption for 71365
the percentage of the improvement to be exempted in excess of 71366
seventy-five per cent, or both, or may accept either or both 71367
exemptions. If the board of county commissioners objects, the 71368
board may negotiate an agreement with the board of township 71369
trustees that provides to the board of county commissioners in the 71370
eleventh and subsequent years of the exemption period compensation 71371
equal in value to not more than fifty per cent of the taxes that 71372
would be payable to the county on the portion of the improvement 71373
in excess of seventy-five per cent, were that portion to be 71374
subject to taxation. The board of county commissioners shall 71375
certify its resolution to the board of township trustees not later 71376
than thirty days after receipt of the notice. 71377

(3) If the board of county commissioners does not object or 71378
fails to certify its resolution objecting to an exemption within 71379
thirty days after receipt of the notice, the board of township 71380
trustees may adopt its resolution, and no compensation shall be 71381
provided to the board of county commissioners. If the board of 71382
county commissioners timely certifies its resolution objecting to 71383
the trustees' resolution, the board of township trustees may adopt 71384
its resolution at any time after the compensation agreement is 71385
agreed to by the board of county commissioners and the board of 71386
township trustees, or, if no compensation agreement is negotiated, 71387
at any time after the board of township trustees agrees to provide 71388
compensation to the board of county commissioners of fifty per 71389
cent of the taxes that would be payable to the county in the 71390
eleventh and subsequent years of the exemption period on the 71391
portion of the improvement in excess of seventy-five per cent, 71392
were that portion to be subject to taxation. 71393

(F) Any of the following property tax levies that are enacted on or after January 1, 2006, and after the date an ordinance creating an incentive district is adopted on or after January 1, 2006, under division (C)(1) of this section shall be levied on property that was exempted from taxation under division (C) of this section and revenues collected from such levies shall not be used to provide service payments under this section:

(1) A tax levied under division (L) of section 5705.19 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied under section 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children.

(G) An exemption from taxation granted under this section commences with the tax year ~~in which an improvement first appears on the tax list and duplicate of real and public utility property and specified in the resolution~~ that begins after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public

purpose or the incentive district expires, or ends on the date on 71424
which the public infrastructure improvements and housing 71425
renovations are paid in full from the township public improvement 71426
tax increment equivalent fund established under section 5709.75 of 71427
the Revised Code, whichever occurs first. The exemption of an 71428
improvement with respect to a parcel may end on a later date, as 71429
specified in the resolution, if the board of township trustees and 71430
the board of education of the city, local, or exempted village 71431
school district within which the parcel is located have entered 71432
into a compensation agreement under section 5709.82 of the Revised 71433
Code with respect to the improvement or district and the board of 71434
education has approved the term of the exemption under division 71435
(D) of this section, but in no case shall the improvement be 71436
exempted from taxation for more than thirty years. The board of 71437
township trustees may, by majority vote, adopt a resolution 71438
permitting the township to enter into such agreements as the board 71439
finds necessary or appropriate to provide for the construction or 71440
undertaking of public infrastructure improvements and housing 71441
renovations. Any exemption shall be claimed and allowed in the 71442
same or a similar manner as in the case of other real property 71443
exemptions. If an exemption status changes during a tax year, the 71444
procedure for the apportionment of the taxes for that year is the 71445
same as in the case of other changes in tax exemption status 71446
during the year. 71447

~~(F)~~(H) The board of township trustees may issue the notes of 71448
the township to finance all costs pertaining to the construction 71449
or undertaking of public infrastructure improvements and housing 71450
renovations made pursuant to this section. The notes shall be 71451
signed by the board and attested by the signature of the township 71452
clerk, shall bear interest not to exceed the rate provided in 71453
section 9.95 of the Revised Code, and are not subject to Chapter 71454
133. of the Revised Code. The resolution authorizing the issuance 71455
of the notes shall pledge the funds of the township public 71456

improvement tax increment equivalent fund established pursuant to 71457
section 5709.75 of the Revised Code to pay the interest on and 71458
principal of the notes. The notes, which may contain a clause 71459
permitting prepayment at the option of the board, shall be offered 71460
for sale on the open market or given to the vendor or contractor 71461
if no sale is made. 71462

~~(G)~~(I) The township, not later than fifteen days after the 71463
adoption of a resolution under this section, shall submit to the 71464
director of development a copy of the resolution. On or before the 71465
thirty-first day of March of each year, the township shall submit 71466
a status report to the director of development. The report shall 71467
indicate, in the manner prescribed by the director, the progress 71468
of the project during each year that the exemption remains in 71469
effect, including a summary of the receipts from service payments 71470
in lieu of taxes; expenditures of money from funds created under 71471
section 5709.75 of the Revised Code; a description of the public 71472
infrastructure improvements and housing renovations financed with 71473
such expenditures; and a quantitative summary of changes in 71474
private investment resulting from each project. 71475

~~(H)~~(J) Nothing in this section shall be construed to prohibit 71476
a board of township trustees from declaring to be a public purpose 71477
improvements with respect to more than one parcel. 71478

~~(I)~~(K) A board of township trustees that adopted a resolution 71479
under this section prior to July 21, 1994, may amend that 71480
resolution to include any additional public infrastructure 71481
improvement. A board of township trustees that seeks by such an 71482
amendment to utilize money from its township public improvement 71483
tax increment equivalent fund for land acquisition in aid of 71484
industry, commerce, distribution, or research, demolition on 71485
private property, or stormwater and flood remediation projects may 71486
do so provided that the board currently is a party to a 71487
hold-harmless agreement with the board of education of the city, 71488

local, or exempted village school district within the territory of 71489
which are located the parcels that are subject to an exemption. 71490
For the purposes of this division, a "hold-harmless agreement" 71491
means an agreement under which the board of township trustees 71492
agrees to compensate the school district for one hundred per cent 71493
of the tax revenue that the school district would have received 71494
from further improvements to parcels designated in the resolution 71495
were it not for the exemption granted by the resolution. 71496

Sec. 5709.77. As used in sections 5709.77 to 5709.81 of the 71497
Revised Code: 71498

(A) "Business day" means a day of the week excluding 71499
Saturday, Sunday, and a legal holiday as defined in section 1.14 71500
of the Revised Code. 71501

(B) "Fund" means to provide for the payment of the debt 71502
service on and the expenses relating to an outstanding obligation 71503
of the county. 71504

(C) "Housing renovation" means a project carried out for 71505
residential purposes. 71506

(D) "Improvement" means the increase in the ~~true~~ assessed 71507
value of real property that would first appear on the tax list and 71508
duplicate of real and public utility property after the effective 71509
date of a resolution adopted under section 5709.78 of the Revised 71510
Code were it not for the exemption granted by that resolution. 71511

~~"Improvement" does not include a public infrastructure 71512
improvement.~~ For purposes of division (A) of section 5709.78 of 71513
the Revised Code, "improvement" does not include any property used 71514
or to be used for residential purposes. 71515

(E) "Incentive district" has the same meaning as in section 71516
5709.40 of the Revised Code, except that a blighted area is in the 71517
unincorporated territory of a county. 71518

(F) "Refund" means to fund and retire an outstanding obligation of the county. 71519
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(G) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code. 71521
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Sec. 5709.78. (A) A board of county commissioners may, by resolution, declare improvements to certain parcels of real property located in the unincorporated territory of the county to be a public purpose. Except as otherwise provided in division (C) of this section, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation; ~~the percentage exempted shall not, except as otherwise provided in those divisions, exceed the estimated percentage of the incremental demand placed on the public infrastructure improvements that is directly attributable to the exempted improvement.~~ The resolution shall specify the percentage of the improvement to be exempted. 71523
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A resolution adopted under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the county that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. ~~For the purposes of this division, a public infrastructure improvement directly benefits such a parcel only if a project on the parcel places direct, additional demand on the public infrastructure improvement or, if the public infrastructure improvement has not yet been completed, will place direct, additional demand on the public infrastructure improvement once it is completed.~~ The service payments provided for in section 5709.79 of the Revised Code shall be used to finance the public infrastructure improvements designated in the resolution. 71535
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(B)(1) A board of county commissioners may adopt a resolution 71549

creating an incentive district and declaring improvements to 71550
parcels within the district to be a public purpose and, except as 71551
provided in division (E) of this section, exempt from taxation as 71552
provided in this section, but no board of county commissioners of 71553
a county that has a population that exceeds twenty-five thousand, 71554
as shown by the most recent federal decennial census, shall adopt 71555
a resolution that creates an incentive district if, as a result of 71556
adopting the resolution, more than twenty-five per cent of the 71557
county's taxable value, as of the first day of January of the year 71558
in which the resolution takes effect, is subject to exemption 71559
because of an incentive district. The twenty-five per cent 71560
limitation does not apply to an incentive district that was 71561
created by a resolution adopted prior to January 1, 2006, unless 71562
the board creates an additional incentive district after that 71563
date. The district shall be located within the unincorporated 71564
territory of the county and shall not include any territory that 71565
is included within a district created under division (C) of 71566
section 5709.73 of the Revised Code. The resolution shall 71567
delineate the boundary of the district and specifically identify 71568
each parcel within the district. A district may not include any 71569
parcel that is or has been exempted from taxation under division 71570
(A) of this section or that is or has been within another district 71571
created under this division. A resolution may create more than one 71572
such district, and more than one resolution may be adopted under 71573
~~this~~ division (B)(1) of this section. 71574

(2) Not later than thirty days prior to adopting a resolution 71575
under ~~this~~ division (B)(1) of this section, if the county intends 71576
to apply for exemptions from taxation under section 5709.911 of 71577
the Revised Code on behalf of owners of real property located 71578
within the proposed incentive district, the board of county 71579
commissioners shall conduct a public hearing on the proposed 71580
resolution. Not later than thirty days prior to the public 71581
hearing, the board shall give notice of the public hearing and the 71582

proposed resolution by first class mail to every real property 71583
owner whose property is located within the boundaries of the 71584
proposed incentive district that is the subject of the proposed 71585
resolution. The board also shall provide the notice by first class 71586
mail to the clerk of each township in which the proposed incentive 71587
district will be located. 71588

(3)(a) A resolution under ~~this~~ division (B)(1) of this 71589
section shall specify the life of the district and the percentage 71590
of the improvements to be exempted and, shall designate the public 71591
infrastructure improvements made ~~or~~, to be made, or in the process 71592
of being made, that benefit or serve, or, once made, will benefit 71593
or serve parcels in the district. The resolution also shall 71594
identify one or more specific projects being, or to be, undertaken 71595
in the district that place additional demand on the public 71596
infrastructure improvements designated in the resolution. The 71597
project identified may, but need not be, the project under 71598
division (B)(3)(b) of this section that places real property in 71599
use for commercial or industrial purposes. 71600

(b) A resolution adopted under ~~this~~ division (B)(1) of this 71601
section may authorize the use of service payments provided for in 71602
section 5709.79 of the Revised Code for the purpose of housing 71603
renovations within the district, provided that the resolution also 71604
designates public infrastructure improvements that benefit or 71605
serve the district, and that a project within the district places 71606
real property in use for commercial or industrial purposes. 71607
Service payments may be used to finance or support loans, deferred 71608
loans, and grants to persons for the purpose of housing 71609
renovations within the district. The resolution shall designate 71610
the parcels within the district that are eligible for housing 71611
renovations. The resolution shall state separately the amount or 71612
the percentages of the expected aggregate service payments that 71613
are designated for each public infrastructure improvement and for 71614

the purpose of housing renovations. 71615

(4) Except with the approval of the board of education of 71616
each city, local, or exempted village school district within the 71617
territory of which the district is or will be located, and subject 71618
to division (D) of this section, the life of a an incentive 71619
district shall not exceed ten years, and the percentage of 71620
improvements to be exempted shall not exceed seventy-five per 71621
cent. With ~~such~~ approval of the board of education, the life of a 71622
district may be not more than thirty years, and the percentage of 71623
improvements to be exempted may be not more than one hundred per 71624
cent. 71625

(5) Approval of a board of education shall be obtained in the 71626
manner provided in division (C) of this section for exemptions 71627
under division (A) of this section, except that the notice to the 71628
board of education shall delineate the boundaries of the district, 71629
specifically identify each parcel within the district, identify 71630
each anticipated improvement in the district, provide an estimate 71631
of the true value in money of each such improvement, specify the 71632
life of the district and the percentage of improvements that would 71633
be exempted, and indicate the date on which the board of county 71634
commissioners intends to adopt the resolution. 71635

~~A board of county commissioners shall not adopt a resolution~~ 71636
~~under this division after June 30, 2007.~~ 71637

(C)(1) Improvements with respect to a parcel may be exempted 71638
from taxation under division (A) of this section for up to ten 71639
years or, with the approval of the board of education of the city, 71640
local, or exempted village school district within which the parcel 71641
is located, for up to thirty years. The percentage of the 71642
improvements exempted from taxation may, with such approval, 71643
exceed seventy-five per cent, but shall not exceed one hundred per 71644
cent. Not later than forty-five business days prior to adopting a 71645
resolution under this section declaring improvements to be a 71646

public purpose that is subject to the approval of a board of 71647
education under this division, the board of county commissioners 71648
shall deliver to the board of education a notice stating its 71649
intent to adopt a resolution making that declaration. The notice 71650
shall identify the parcels for which improvements are to be 71651
exempted from taxation, provide an estimate of the true value in 71652
money of the improvements, specify the period for which the 71653
improvements would be exempted from taxation and the percentage of 71654
the improvements that would be exempted, and indicate the date on 71655
which the board of county commissioners intends to adopt the 71656
resolution. The board of education, by resolution adopted by a 71657
majority of the board, may approve the exemption for the period or 71658
for the exemption percentage specified in the notice, may 71659
disapprove the exemption for the number of years in excess of ten, 71660
may disapprove the exemption for the percentage of the 71661
improvements to be exempted in excess of seventy-five per cent, or 71662
both, or may approve the exemption on the condition that the board 71663
of county commissioners and the board of education negotiate an 71664
agreement providing for compensation to the school district equal 71665
in value to a percentage of the amount of taxes exempted in the 71666
eleventh and subsequent years of the exemption period or, in the 71667
case of exemption percentages in excess of seventy-five per cent, 71668
compensation equal in value to a percentage of the taxes that 71669
would be payable on the portion of the improvements in excess of 71670
seventy-five per cent were that portion to be subject to taxation, 71671
or other mutually agreeable compensation. The board of education 71672
shall certify its resolution to the board of county commissioners 71673
not later than fourteen days prior to the date the board of county 71674
commissioners intends to adopt its resolution as indicated in the 71675
notice. ~~If the board of education approves the exemption on the~~ 71676
~~condition that a compensation agreement be negotiated, the board~~ 71677
~~of education in its resolution shall propose a compensation~~ 71678
~~percentage.~~ If the board of education and the board of county 71679

commissioners negotiate a mutually acceptable compensation 71680
agreement, the resolution of the board of county commissioners may 71681
declare the improvements a public purpose for the number of years 71682
specified in that resolution or, in the case of exemption 71683
percentages in excess of seventy-five per cent, for the exemption 71684
percentage specified in the resolution. In either case, if the 71685
board of education and the board of county commissioners fail to 71686
negotiate a mutually acceptable compensation agreement, the 71687
resolution may declare the improvements a public purpose for not 71688
more than ten years, but shall not exempt more than seventy-five 71689
per cent of the improvements from taxation, ~~or, in the case of a~~ 71690
~~resolution adopted under division (A) of this section, not more~~ 71691
~~than the estimated percentage of the incremental demand as~~ 71692
~~otherwise prescribed by division (A) of this section if that~~ 71693
~~percentage is less than seventy five per cent.~~ If the board of 71694
education fails to certify a resolution to the board of county 71695
commissioners within the time prescribed by this section, the 71696
board of county commissioners thereupon may adopt the resolution 71697
and may declare the improvements a public purpose for up to thirty 71698
years or, in the case of exemption percentages proposed in excess 71699
of seventy-five per cent, for the exemption percentage specified 71700
in the resolution. The board of county commissioners may adopt the 71701
resolution at any time after the board of education certifies its 71702
resolution approving the exemption to the board of county 71703
commissioners, or, if the board of education approves the 71704
exemption on the condition that a mutually acceptable compensation 71705
agreement be negotiated, at any time after the compensation 71706
agreement is agreed to by the board of education and the board of 71707
county commissioners. 71708

(2) If a board of education has adopted a resolution waiving 71709
its right to approve exemptions from taxation and the resolution 71710
remains in effect, approval of such exemptions by the board of 71711
education is not required under division (C)(1) of this section. 71712

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

(D)(1) If a proposed resolution under division (B)(1) of this section exempts improvements with respect to a parcel for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the board of county commissioners shall deliver to the board of township trustees of any township or legislative authority of any municipal corporation within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution.

(2) The board of township trustees or legislative authority of the municipal corporation, or both, by resolution, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both, or may accept either or both exemptions. If the board of township trustees or legislative authority, or both, objects, the board of township trustees or legislative authority may negotiate an

agreement with the board of county commissioners that provides to 71745
the board of township trustees or legislative authority, or both, 71746
in the eleventh and subsequent years of the exemption period 71747
compensation equal in value to not more than fifty per cent of the 71748
taxes that would be payable to the township or municipal 71749
corporation on the portion of the improvement in excess of 71750
seventy-five per cent, were that portion to be subject to 71751
taxation. The board of township trustees and legislative authority 71752
shall certify its resolution to the board of county commissioners 71753
not later than thirty days after receipt of the notice. 71754

(3) If the board of township trustees and the legislative 71755
authority of the municipal corporation does not object or fails to 71756
certify a resolution objecting to an exemption within thirty days 71757
after receipt of the notice, the board of county commissioners may 71758
adopt its resolution, and no compensation shall be provided to the 71759
board of township trustees or legislative authority. If both the 71760
board of township trustees or legislative authority of the 71761
municipal corporation certify resolutions objecting to the 71762
commissioners' resolution, the board of county commissioners may 71763
adopt its resolution at any time after both compensation 71764
agreements are agreed to by the board of county commissioners and 71765
the respective party to the agreement. If either the board of 71766
township trustees or legislative authority of the municipal 71767
corporation certify a resolution objecting to the commissioners' 71768
resolution, the board of county commissioners may adopt its 71769
resolution at any time after the compensation agreement is agreed 71770
to by the board of county commissioners and the board or 71771
legislative authority, or, if no compensation agreement is 71772
negotiated, at any time after the board of county commissioners 71773
agrees to provide compensation to the board of township trustees 71774
or legislative authority, or to both, of fifty per cent of the 71775
taxes that would be payable to the township or municipal 71776

corporation in the eleventh and subsequent years of the exemption 71777
period on the portion of the improvement in excess of seventy-five 71778
per cent, were that portion to be subject to taxation. 71779

(E) Any of the following property tax levies that are enacted 71780
on or after January 1, 2006, and after the date an ordinance 71781
creating an incentive district is adopted on or after January 1, 71782
2006, under division (C)(1) of this section shall be levied on 71783
property that was exempted from taxation under division (C) of 71784
this section and revenues collected from such levies shall not be 71785
used to provide service payments under this section: 71786

(1) A tax levied under division (L) of section 5705.19 of the 71787
Revised Code for community mental retardation and developmental 71788
disabilities programs and services pursuant to Chapter 5126. of 71789
the Revised Code; 71790

(2) A tax levied under division (Y) of section 5705.19 of the 71791
Revised Code for providing or maintaining senior citizens services 71792
or facilities; 71793

(3) A tax levied under section 5705.22 of the Revised Code 71794
for county hospitals; 71795

(4) A tax levied under section 5705.221 of the Revised Code 71796
for alcohol, drug addiction, and mental health services; 71797

(5) A tax levied under section 5705.23 of the Revised Code 71798
for library purposes; 71799

(6) A tax levied under section 5705.24 of the Revised Code 71800
for the support of children services and the placement and care of 71801
children. 71802

(F) An exemption from taxation granted under this section 71803
commences with the tax year in which an improvement first appears 71804
on the tax list and duplicate of real and public utility property 71805
and specified in the resolution that begins after the effective 71806

date of the resolution. Except as otherwise provided in this 71807
division, the exemption ends on the date specified in the 71808
resolution as the date the improvement ceases to be a public 71809
purpose or the incentive district expires, or ends on the date on 71810
which the county can no longer require annual service payments in 71811
lieu of taxes under section 5709.79 of the Revised Code, whichever 71812
occurs first. The exemption of an improvement with respect to a 71813
parcel may end on a later date, as specified in the resolution, if 71814
the board of commissioners and the board of education of the city, 71815
local, or exempted village school district within which the parcel 71816
is located have entered into a compensation agreement under 71817
section 5709.82 of the Revised Code with respect to the 71818
improvement or district and the board of education has approved 71819
the term of the exemption under division (C)(1) of this section, 71820
but in no case shall the improvement be exempted from taxation for 71821
more than thirty years. Exemptions shall be claimed and allowed in 71822
the same or a similar manner as in the case of other real property 71823
exemptions. If an exemption status changes during a tax year, the 71824
procedure for the apportionment of the taxes for that year is the 71825
same as in the case of other changes in tax exemption status 71826
during the year. 71827

~~(E)~~(G) If the board of county commissioners is not required 71828
by this section to notify the board of education of the board of 71829
county commissioners' intent to declare improvements to be a 71830
public purpose, the board of county commissioners shall comply 71831
with the notice requirements imposed under section 5709.83 of the 71832
Revised Code before taking formal action to adopt the resolution 71833
making that declaration, unless the board of education has adopted 71834
a resolution under that section waiving its right to receive such 71835
a notice. 71836

~~(F)~~(H) The county, not later than fifteen days after the 71837
adoption of a resolution under this section, shall submit to the 71838

director of development a copy of the resolution. On or before the 71839
thirty-first day of March of each year, the county shall submit a 71840
status report to the director of development. The report shall 71841
indicate, in the manner prescribed by the director, the progress 71842
of the project during each year that an exemption remains in 71843
effect, including a summary of the receipts from service payments 71844
in lieu of taxes; expenditures of money from funds created under 71845
section 5709.75 of the Revised Code; a description of the public 71846
infrastructure improvements and housing renovations financed with 71847
such expenditures; and a quantitative summary of changes in 71848
employment and private investment resulting from each project. 71849

~~(G)~~(I) Nothing in this section shall be construed to prohibit 71850
a board of county commissioners from declaring to be a public 71851
purpose improvements with respect to more than one parcel. 71852

Sec. 5711.01. As used in this chapter: 71853

(A) "Taxable property" includes all the kinds of property 71854
mentioned in division (B) of section 5709.01 and section 5709.02 71855
of the Revised Code, and also the amount or value as of the date 71856
of conversion of all taxable property converted into bonds or 71857
other securities not taxed on or after the first day of November 71858
in the year preceding the date of listing, and of all other 71859
taxable property converted into deposits after the date as of 71860
which deposits are required to be listed in such year, except in 71861
the usual course of the taxpayer's business, to the extent ~~he~~ the 71862
taxpayer may hold or control such bonds, securities, or deposits 71863
on such day, without deduction for indebtedness created in the 71864
purchase of such bonds or securities from ~~his~~ the taxpayer's 71865
credits. ~~However, taxable~~ "Taxable property" does not include such 71866
investments and deposits as are taxable at the source as provided 71867
in sections 5725.01 to 5725.26 of the Revised Code, surrender 71868
values under policies of insurance, or any tangible personal 71869

property acquired from a public utility or interexchange 71870
telecommunications company as defined in section 5727.01 of the 71871
Revised Code, and leased back to the public utility or 71872
interexchange telecommunications company pursuant to a sale and 71873
leaseback transaction as defined in division (I) of section 71874
5727.01 of the Revised Code. 71875

For tax year 2007 and thereafter, taxable property leased to 71876
a telephone, telegraph, or interexchange telecommunications 71877
company, as defined in section 5727.01 of the Revised Code, shall 71878
be listed and assessed by the owner of the property at the 71879
percentage of true value in money required under division (H) of 71880
section 5711.22 of the Revised Code. 71881

(B) "Taxpayer" means any owner of taxable property, including 71882
property exempt under division (C) of section 5709.01 of the 71883
Revised Code, and includes every person residing in, or 71884
incorporated or organized by or under the laws of this state, or 71885
doing business in this state, or owning or having a beneficial 71886
interest in taxable personal property in this state and every 71887
fiduciary required by sections 5711.01 to 5711.36 of the Revised 71888
Code, to make a return for or on behalf of another. For tax year 71889
2007 and thereafter, "taxpayer" includes telephone companies, 71890
telegraph companies, and interexchange telecommunications company 71891
as defined in section 5727.01 of the Revised Code. The tax 71892
commissioner may by rule define and designate the taxpayer, as to 71893
any taxable property which would not otherwise be required by this 71894
section to be returned; and any such rule shall be considered 71895
supplementary to the enumeration of kinds of taxpayers following: 71896

(1) Individuals of full age and sound mind residing in this 71897
state; 71898

(2) Partnerships, corporations, associations, and joint-stock 71899
companies, under whatever laws organized or existing, doing 71900
business or having taxable property in this state; and 71901

corporations incorporated by or organized under the laws of this state, wherever their actual business is conducted; 71902
71903

(3) Fiduciaries appointed by any court in this state or having title, possession, or custody of taxable personal property in this state or engaged in business in this state; 71904
71905
71906

(4) Unincorporated mutual funds. 71907

Taxpayer excludes all individuals, partnerships, corporations, associations, and joint-stock companies, their executors, administrators, and receivers who are defined in Title LVII of the Revised Code as financial institutions, dealers in intangibles, domestic insurance companies, or public utilities, except to the extent they may be required by sections 5711.01 to 5711.36 of the Revised Code, to make returns as fiduciaries, or by section 5725.26 of the Revised Code, to make returns of property leased, or held for the purpose of leasing, to others if the owner or lessor of the property acquired it for the sole purpose of leasing it to others or to the extent that property is taxable under section 5725.25 of the Revised Code. 71908
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(C) "Return" means the taxpayer's annual report of taxable property. 71920
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(D) "List" means the designation, in a return, of the description of taxable property, the valuation or amount thereof, the name of the owner, and the taxing district where assessable. 71922
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(E) "Taxing district" means, in the case of property assessable on the classified tax list and duplicate, a municipal corporation or the territory in a county outside the limits of all municipal corporations therein; in the case of property assessable on the general tax list and duplicate, a municipal corporation or township, or part thereof, in which the aggregate rate of taxation is uniform. 71925
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(F) "Assessor" includes the tax commissioner and the county auditor as deputy of the commissioner. 71932
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(G) "Fiduciary" includes executors, administrators, parents, guardians, receivers, assignees, official custodians, factors, bailees, lessees, agents, attorneys, and employees, but does not include trustees unless the sense so requires. 71934
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(H) "General tax list and duplicate" means the books or records containing the assessments of property subject to local tax levies. 71938
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(I) "Classified tax list and duplicate" means the books or records containing the assessments of property not subject to local tax levies. 71941
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(J) "Investment company" means any corporation, the shares of which are regularly offered for sale to the public, engaged solely in the business of investing and reinvesting funds in real property or investments, or holding or selling real property or investments for the purpose of realizing income or profit which is distributed to its shareholders. Investment company does not include any dealer in intangibles, as defined in section 5725.01 of the Revised Code. 71944
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(K) "Unincorporated mutual fund" means any partnership, each partner of which is a corporation, engaged solely in the business of investing and reinvesting funds in investments, or holding or selling investments for the purpose of realizing income or profit which is distributed to its partners and which is subject to Chapter 1707. of the Revised Code. An unincorporated mutual fund does not include any dealer in intangibles as defined in section 5725.01 of the Revised Code. 71952
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Sec. 5711.16. (A) As used in this section, ~~manufacturer:~~ 71960

(1) "Manufacturer" means a person who purchases, receives, or 71961

holds personal property for the purpose of adding to its value by 71962
manufacturing, refining, rectifying, or combining different 71963
materials with a view of making a gain or profit by so doing. 71964

(2) "Manufacturing equipment" means machinery and equipment, 71965
and tools and implements, including any associated patterns, jigs, 71966
dies, drawings, and business fixtures, used at a manufacturing 71967
facility by a manufacturer, and includes any such property leased 71968
to the manufacturer. "Manufacturing equipment" excludes property 71969
used for general office purposes. Nothing in this division is to 71970
be construed to change the definition of personal property, as 71971
defined in section 5701.03 of the Revised Code. 71972

(3) "Manufacturing facility" means a facility or portion of a 71973
facility used for manufacturing, mining, refining, rectifying, or 71974
combining different materials with a view of making a gain or 71975
profit by so doing. "Manufacturing facility" includes that portion 71976
of a facility used to store or transport raw materials, 71977
work-in-process, or finished goods inventory, for packaging, for 71978
research, or to test for quality control, as long as 71979
manufacturing, mining, refining, rectifying, or combining is also 71980
performed at the facility. "Manufacturing facility" does not 71981
include any portion of a facility used primarily for making retail 71982
sales. 71983

(4) "Manufacturing inventory" means all articles purchased, 71984
received, or otherwise held for the purpose of being used, in 71985
whole or in part, in manufacturing, mining, combining, rectifying, 71986
or refining, and of all articles that were at any time 71987
manufactured or changed in any way by a manufacturer, either by 71988
mining, combining, rectifying, refining, or adding thereto. 71989

(B) When a manufacturer is required to return a statement of 71990
the amount of the manufacturer's personal property used in 71991
business, the manufacturer shall include the average value, 71992
estimated as provided in this section, of ~~all articles purchased,~~ 71993

~~received, or otherwise held for the purpose of being used, in~~ 71994
~~whole or in part, in manufacturing, combining, rectifying, or~~ 71995
~~refining, and of all articles that were at any time manufactured~~ 71996
~~or changed in any way by the manufacturer, either by combining,~~ 71997
~~rectifying, refining, or adding thereto, manufacturing inventory~~ 71998
that the manufacturer has had on hand during the year ending on 71999
the day the property is listed for taxation annually, or the part 72000
of such year during which the manufacturer was engaged in 72001
business. The manufacturer shall separately list finished products 72002
not kept or stored at the place of manufacture or at a warehouse 72003
in the same county. 72004

The average value of such property shall be ascertained by 72005
taking the value of all property subject to be listed on the 72006
average basis, owned by the manufacturer on the last business day 72007
of each month the manufacturer was engaged in business during the 72008
year, adding the monthly values together, and dividing the result 72009
by the number of months the manufacturer was engaged in such 72010
business during the year. The result shall be the average value to 72011
be listed. 72012

~~(B)(C)~~ A manufacturer also shall list all ~~engines and~~ 72013
~~machinery, and tools and implements, of every kind used, or~~ 72014
~~designed to be used, in refining and manufacturing, and equipment~~ 72015
owned or used by the manufacturer. 72016

Sec. 5711.21. (A) In assessing taxable property the assessor 72017
shall be governed by the rules of assessment prescribed by 72018
sections 5711.01 to 5711.36 of the Revised Code. Wherever any 72019
taxable property is required to be assessed at its true value in 72020
money or at any percentage of true value, the assessor shall be 72021
guided by the statements contained in the taxpayer's return and 72022
such other rules and evidence as will enable the assessor to 72023
arrive at such true value. Wherever the income yield of taxable 72024

property is required to be assessed, and the method of determining 72025
between income and return or distribution of principal, or that of 72026
allocating expenses in determining net income, or that of 72027
ascertaining the source from which partial distributions of income 72028
have been made is not expressly prescribed by sections 5711.01 to 72029
5711.36 of the Revised Code, the assessor shall be guided by the 72030
statements contained in the taxpayer's return and such general 72031
rules as the tax commissioner adopts to enable the assessor to 72032
make such determination. 72033

(B) ~~The~~ For tax years before tax year 2009, the true value of 72034
the boilers, machinery, equipment, and any personal property used 72035
to generate or distribute the electricity shall be the sum of the 72036
following: 72037

(1) The true value of the property as it would be determined 72038
under this chapter if none of the electricity were distributed to 72039
others multiplied by the per cent of the electricity generated in 72040
the preceding calendar year that was used by the person who 72041
generated it; plus 72042

(2) The true value of the property that is production 72043
equipment as it would be determined for an electric company under 72044
section 5727.11 of the Revised Code multiplied by the per cent of 72045
the electricity generated in the preceding calendar year that was 72046
not used by the person who generated it; plus 72047

(3) The true value of the property that is not production 72048
equipment as it would be determined for an electric company under 72049
section 5727.11 of the Revised Code multiplied by the per cent of 72050
the electricity generated in the preceding calendar year that was 72051
not used by the person who generated it. 72052

(C) ~~The~~ For tax years before tax year 2009, the true value of 72053
personal property leased to a public utility or interexchange 72054
telecommunications company as defined in section 5727.01 of the 72055

Revised Code and used by the utility or interexchange 72056
telecommunications company directly in the rendition of a public 72057
utility service as defined in division (P) of section 5739.01 of 72058
the Revised Code shall be determined in the same manner that the 72059
true value of such property is determined under section 5727.11 of 72060
the Revised Code if owned by the public utility or interexchange 72061
telecommunications company. 72062

Sec. 5711.22. (A) Deposits not taxed at the source shall be 72063
listed and assessed at their amount in dollars on the day they are 72064
required to be listed. Moneys shall be listed and assessed at the 72065
amount thereof in dollars on hand on the day that they are 72066
required to be listed. In listing investments, the amount of the 72067
income yield of each for the calendar year next preceding the date 72068
of listing shall, except as otherwise provided in this chapter, be 72069
stated in dollars and cents and the assessment thereof shall be at 72070
the amount of such income yield; but any property defined as 72071
investments in either division (A) or (B) of section 5701.06 of 72072
the Revised Code that has not been outstanding for the full 72073
calendar year next preceding the date of listing, except shares of 72074
stock of like kind as other shares of the same corporation 72075
outstanding for the full calendar year next preceding the date of 72076
listing, or which has yielded no income during such calendar year 72077
shall be listed and assessed as unproductive investments, at their 72078
true value in money on the day that such investments are required 72079
to be listed. 72080

Credits and other taxable intangibles shall be listed and 72081
assessed at their true value in money on the day as of which the 72082
same are required to be listed. 72083

Shares of stock of a bank holding company, as defined in 72084
Title 12 U.S.C.A., section 1841, that are required to be listed 72085
for taxation under this division and upon which dividends were 72086